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Judiciary Committee
January 18, 2017

[LB7 LB8 LB10 LB11]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, January 18, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB7, LB8, LB11, and LB10. Senators present: Laura Ebke, Chairperson; Patty Pansing Brooks, Vice Chairperson; Roy Baker; Ernie Chambers; Steve Halloran; Matt Hansen; Bob Krist; and Adam Morfeld. Senators absent: None.

SENATOR EBKE: Good afternoon. Welcome to the Judiciary Committee. My name is Laura Ebke. I'm the...from Crete and I represent Legislative District 32. We are...we have people trickling in yet, but I'd like to start off by introducing or having the members of the committee introduce themselves, starting with Senator Baker.

SENATOR BAKER: Senator Roy Baker, District 30.

SENATOR MORFELD: Senator Adam Morfeld, District 46.

SENATOR KRIST: Bob Krist, District 10.

SENATOR HANSEN: Matt Hansen, District 26.

SENATOR HALLORAN: Steve Halloran, District 33.

SENATOR EBKE: And Senator Pansing Brooks and Senator Chambers may be coming as well. Assisting the committee today are Laurie Vollertsen, our committee clerk; Tim Hruza, who is our legal counsel; and the committee pages are Kaylee Hartman and Toni Caudillo. They are students at the university. There's Senator Pansing Brooks. On the table in front of you, you will find some yellow testifier sheets, that one over there. If you're planning on testifying today, please fill out one and hand it to the page when you come up to testify. This helps us to keep an accurate record of the hearing. There's also a white sheet on the table if you don't wish to testify but would like to have your position recorded. We'll also begin with testimony and then the introducer's opening statement; following the opening we will hear from proponents, those who are for the bill, then opponents, those who are against the bill, followed by those speaking in a neutral capacity. We'll finish with a closing statement by the introducer if he wishes to give one. We ask that you begin your testimony by giving us your first and last name, and please spell them for the record. If you are going to testify...how many of you think you might testify for one of these bills today? Okay. What I am going to ask for you to do is, if you are a proponent for the first bill, we have an on-deck chair that we're going to try this year so that we can keep things

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moving. So keep the chair filled up when we're on proponents, then opponents, and so forth, so that I know that there's somebody left to testify. If the chair goes empty, I'm going to assume that we're done with that section of the hearing. If you have any handouts, please bring up at least 12 copies and give them to the page. If you don't have enough copies, the page can help you make some more. We will have...we will be using a five-minute light system. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we ask that you wrap up your final thought and stop. As a matter of general policy I'd like to remind everyone that use of cell phones and other electronic devices in the hearing room is not allowed, although you may see senators using their computers to take notes and to keep track of and to keep in contact with their staff. At this time I'd ask everybody to make sure that their cell phones are on silent or vibrate mode so that they don't distract. Also a reminder, I don't think this particular hearing will get us there, but if there are any outbursts or applause, please limit yourself on that so that we can keep things moving.

SENATOR KRIST: What?

SENATOR EBKE: Maybe, I don't know.

SENATOR KRIST: Applause.

SENATOR MORFELD: (Inaudible.)

SENATOR EBKE: One other thing I would...for anybody who hasn't been to one of our committee hearings in the past, you will notice committee members will be coming and going. That has nothing to do with the importance of the bills that are being heard today; rather, it has to do with senators having other bills being heard in other committees that they have to go introduce themselves or meetings that they can't avoid. I will actually be one of those getting up to leave at some point. Senator Pansing Brooks, our Vice Chair, will fill in for me while I'm gone. With that, we will begin today's hearing with LB7. Senator Krist. [LB7]

SENATOR KRIST: Thank you, Senator Ebke and fellow members of the Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District which encompasses northwestern Omaha, unincorporated parts of Douglas County, and the city of Bennington. I'm going to introduce the bill and then I'm going to tell you why it's not necessary. LB7 is a stereo or a duplicate of what...a bill I introduced that went to Health and Human Services Committee several years ago which, instead of terminating Medicaid, which is required by CMS at the federal government level, we would suspend Medicaid for those people who were incarcerated. The word I forgot to use is a word of detention because we don't incarcerate juveniles, we detain them, so I wanted to make very clear that that legislation that

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was passed did, indeed, apply to all members whose personal freedoms were taken away either because of incarceration or detention. As is the case, the bills get dropped. And shortly before suspense of actually coming to present, a department or an agency may see something that isn't quite right with the bill or questions, and for that I thank Calder Lynch who heads up our Medicaid Division at HHS who was nice enough to give me a call and tell me...ask me what I was up to, which is always the question we love to hear from the outside agencies. After a thorough discussion, he called back and gave me the data that I needed to have, and that I will let him present to you. But it is not necessary because the Department of Corrections and the Department of Health and Human Services are taking care of those issues for us. And I think the point, again, to put it on a legislative history and record, which is very important in these hearings, is simply to say when we detain or incarcerate someone whose only eligibility for essential drugs to manage their life is based upon Medicaid and we terminate those services, it takes a long time to reinstate them. So we want people to walk away from our detention facilities and our institutions with the right medicines in hand, whether they be psychotropic or whether they be simple insulin or the right drug to keep one's mind straight. And the reason for that is we're all about reducing recidivism and, without that drug, that person may or may not, but may, return to the life that put them in that state. That was the purpose of the bill and, with that, I will stop my introduction and allow Calder, and maybe others, to come forward and give an explanation for why it's not necessary. Thank you, Madam Chair. [LB7]

SENATOR EBKE: Thank you. First up. [LB7]

ELAINE MENZEL: Chair Ebke and members of the Judiciary Committee, for the record, my name is Elaine Menzel; it's E-l-a-i-n-e M-e-n-z-e-l. I'm here on behalf of the Nebraska Association of County Officials. I was prepared to testify in support of this legislation because we did support the legislation that Senator Krist referred to two years ago. And as he said, we think this is important to accommodate the individuals who...with their health needs after the release from the institutions. As he referred to, as well, it can take...prior to this...the prior legislation being adopted, it was taking as many as maybe 30 days to two years, from literature I've read. So with that, I'll stop and not take any more of your time. But I certainly would receive any questions if you have any. [LB7]

SENATOR EBKE: Any questions from the committee? Okay, thank you. [LB7]

ELAINE MENZEL: Thank you. [LB7]

SENATOR EBKE: Calder. [LB7]

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CALDER LYNCH: (Exhibit 1) Well, good afternoon, Senator Ebke and members of the Judiciary Committee. My name is Calder Lynch, C-a-l-d-e-r L-y-n-c-h. I am the director of the Division of Medicaid and Long-Term Care at the Department of Health and Human Services and I'm here to provide information regarding LB7. And I want to begin by thanking Senator Krist for engaging in what has been a very positive dialogue regarding this proposal over the last several days. I think it's helped to spread awareness about some of the good work that has occurred over the last few years between HHS, Corrections, and local officials to improve how we're managing some of the Medicaid eligibility operations. I thought I'd take a few moments and just provide some background for the committee regarding this process and how it interacts with federal regulations. Longstanding federal guidance has restricted the use of Medicaid funds for individuals who are detained in a public institution. In an effort to ease the transition of these individuals who would otherwise be eligible for Medicaid, the Legislature passed LB605 in 2015. This bill provided for the suspension of Medicaid eligibility for inmates of public institutions. Since that time, the state has worked with our partners in the Department of Correctional Services, local county governments, and our youth residential treatment centers, or YRTC, to create a process in which we are notified of a person's entry into a public institution so that we can suspend, rather than terminate, their Medicaid eligibility. We are then notified upon the individual's release so that their Medicaid coverage can be reactivated. What began as a manual process in September 2015 was recently automated last year for our Department of Corrections and county facilities. These facilities report intake and release information through the Nebraska Criminal Justice Information System, or the NCJIS, interface. This data feed creates an automated alert within our eligibility system that triggers a worker to review the case and take the appropriate next steps. Meanwhile, our YRTC staff and our sister Division of Children and Family Services have direct access into our eligibility system and can screen their residents for Medicaid eligibility and notify our workers when a suspension is appropriate, and there is a process in place for that. Senator Krist's bill changes the provisions that were enacted in LB605 to make clear that they not only apply to inmates of public institutions but also to detainees. As I shared with the senator--and again, we had a very good conversation--the agency already is suspending these individuals who might be considered a detainee under this bill, including youth in our YRTCs as well as youth in county juvenile detention facilities, since they meet the federal definition of an inmate in a public institution. Federal Medicaid regulations have a two-part test when determining whether federal Medicaid funding is allowed to be spent on an individual's healthcare needs. The individual must (1) be an inmate and (2) be residing in an institution in order to be disqualified for funding, which is defined as "an institution that is the responsibility of a governmental unit, or over which a governmental unit exercises administrative control." So when an individual meets that definition, they...we are not allowed to suspend Medicaid, federal Medicaid dollars, on their needs during that time. There is no distinction in federal regulations between someone who is an inmate and someone who is a detainee. An inmate is defined as someone who is "serving time for a criminal offense or confined involuntarily in state or federal prisons, jails, detention facilities, or other penal facilities." The

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1997 State Medicaid Director letter that stipulates these provisions even clarifies further that "a juvenile awaiting trial in a detention center is no different than an adult in a maximum security prison" for purposes of determining Medicaid eligibility. Therefore, "inmate" as defined in federal regulations includes anyone who might be considered a detainee under LB7. With that, I want to thank you for the opportunity to testify before you today, and I am happy to answer any questions from the committee. [LB7]

SENATOR EBKE: Any questions? Okay, thank you for coming. [LB7]

CALDER LYNCH: Thank you, Senator. [LB7]

SENATOR EBKE: Yeah. Other proponents? I see no one in the on-deck chair. Any opponents? Anyone in the neutral? Senator Krist, would you like to close? [LB7]

SENATOR KRIST: Briefly. [LB7]

SENATOR EBKE: Okay. [LB7]

SENATOR KRIST: I want to also...excuse me. I'd like to also enter into the public record and to our legislative record that this effort for me started in late 2013-14, and I took this initiative to then the Department of Medicaid as well as Children and Family Services, received no cooperation from the folks who were there at the time. I have to tell you that the people who are there now: remarkably very much more professional and understand the needs of the Nebraskans. And so I want to personally thank Ms. Phillips, the director, as CEO, as well as Calder, for the things that they have done to make life better for the people and particularly for the kids of this state. [LB7]

SENATOR EBKE: Any questions for Senator Krist? Thank you. This closes the hearing on LB7. We'll move to LB8. [LB7]

SENATOR KRIST: Good afternoon, Senator Ebke, fellow members of the Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District: northwest Omaha, unincorporated parts of Douglas County, and the city of Bennington. I appear before you today in introduction and support of LB8. LB8 continues the work of creating a Nebraska juvenile justice system that builds on practical, commonsense approaches that we know work to decrease delinquency, enhance public safety, and put youth on the path to success. My research over the last eight years has taken me to MacArthur Foundation, Annie E. Casey, Juvenile Detention Alternatives Initiative, JDAI, as well as other literature. And

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incorporating best practices, as well as a metrics-based approach to handling our Corrections and detention in juvenile system is of the utmost importance to me. Over 20 years of research tells us that the youth have a better outcome in the system designed to provide graduated responses to positive and to negative behavior, yet right now our statute for juvenile probation's administration sanctions mirrors adult statute and does not allow for age-appropriate, risk-based interventions or assessment. LB8 would change that the system of response for probation officers to hold youth accountable for compliance with court-ordered conditions of probation and encourage positive behavior changes through both positive incentives and graduated sanctions. LB8 would also make clear that youth cannot be incarcerated in detention facilities only for infractions of their probation order that don't rise to the level of dangerous or risk our statutes otherwise provide for our kids in confinement. Nationwide and in Nebraska, youth sit in detention centers as a sanction for minor technical violations of probation. This is a costly and ineffective way to provide because we know that detention increases the likelihood of recidivism and compromises a youth's ability to access mental healthcare, education, job training, and other resources proven to keep them on the right track. When we interrupt the progression and the education of the youth, we interrupt his what we hope will be a restorative or rejuvenating effort to bring the youth back to good status. We can better equip probation officers by providing statute that defines and allows for graduated sanctions and incentives to respond to youth's behavior while on probation, reducing the need for detention and allow allocating our resources. As many of you know, I am the cochair of the JDAI, Juvenile Detention Alternatives Initiative, in the state, along with Corey Steel, the Administrator of the Court. And we have seen in the time that we have taken these kinds of positive changes a reduction in the detention facility at YRTC at Kearney and Geneva by 50 percent going from an average population of over 200 to less than 100 at its low point in YRTC-Kearney in particular. These are the kinds of initiatives that provide for a quality education and quality measures to be taken with positive reinforcement to put our youth back on the right track. [LB8]

SENATOR EBKE: Any questions for Senator Krist at this point? Okay. Proponents of the bill? [LB8]

COREY STEEL: (Exhibit 3) Good afternoon, Senator Ebke and members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l. I am the State Court Administrator for the judicial branch and the Nebraska Supreme Court and cochair of the state Juvenile Detention Alternatives Initiative with Senator Bob Krist. I am here today testifying in support of LB8. Again, JDAI is a national initiative supported by the Annie E. Casey Foundation that has been assisting states in implementing evidence-based strategies for detention and juvenile justice system improvement for over 25 years. One of the fundamental premises of JDAI is that the purpose of detention should be limited to those youth who pose a community safety risk or a risk to flee the jurisdiction of the court. The research in this area is clear that when youth are detained for other reasons, such as low-risk youth for a very short period of time for technical violations,

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is detrimental to their outcomes. This is essential to consider when so many youth nationally and here in Nebraska are detained on technical violations of probation, behaviors that violate a condition of probation but are not a new law violation. LB8 continues to move Nebraska forward in our effort to have juvenile justice systems that balance accountability with the strategies that promote behavior change which leads to recidivism reduction. Juvenile probation officers have been limited in their ability to hold youth accountable for those technical violations in a developmentally appropriate way due to the current administrative sanctions in statute. The current Statute 43-286.01 prescribes the same sanctions for juveniles that are applied to the adult probationers, as Senator Krist outlined, yet we know through research that youth need interventions that address adolescents' behavior in an age-appropriate manner in order to be successful. I want to touch on 43-286.01 as I was one of the individuals that constructed that piece of legislation back in 2010. In works with former Chairman Senator Ashford, myself and his legal staff worked one year to create graduated sanctions. It was the very first time graduated sanctions were going to be utilized for juveniles and placed in statute. At that time, we had an adult statute that the Community Corrections Council back from 2004 to about 2010 instituted on the adult side. There was some push back from some senators at that time to say this is new, we're not sure how it's going to work with juveniles, and we were just at the very start of creating juvenile justice reform in 2010 with LB800. So that's why we went ahead and started with what was already in statute on the adult side and we'd just been, as we had gone through two or three different writes of that statute on how to make it, as I'll say, "juvenilized." We then went and were able to at least get passed something in statute for graduated sanctions with juveniles. This is now that next step. At that point in time, Senator Ashford and others had said this is the first step in getting graduated sanctions in statute for juveniles; now we're taking that next step in order to really "juvenilize" those statutes and allow for the things that are beneficial to juveniles. The proposed changes outlined in LB8 would allow juvenile probation officers to implement evidence-based strategies when administering graduated sanctions for technical violations and incentive to promote positive behavior change. Juvenile Services Division of Probation has been developing a graduated response matrix in collaboration with our national partners at Annie E. Casey Foundation and through research from the National Council of Juvenile and Family Court Judges. The matrix will match sanctions to the youth's behaviors and their youth level of service risk domains, which is the risk assessment that Juvenile Probation utilizes. This type of targeted intervention will assist in keeping youth out of detention for low-risk behaviors and optimize the best chance for a youth to be successful on probation. LB8 also institutionalizes the use of incentives which is best practice for positive youth development and recognizes a youth's success during their course of their probation term. LB8 is practical, evidence-based policy that will further equip our juvenile justice system and provide accountability and community safety through the system of graduated response. Thank you for your time today and I am happy to answer any questions you may have. [LB8]

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SENATOR EBKE: Are there any questions for Mr. Steel? Going once, going twice. Thank you for coming in. [LB8]

COREY STEEL: Thank you. [LB8]

SENATOR EBKE: Thanks. Next up. [LB8]

CHRISTINE HENNINGSEN: (Exhibit 4) Good afternoon. My name is Christine Henningsen, C-h-r-i-s-t-i-n-e, Henningsen, H-e-n-n-i-n-g-s-e-n. I'm an attorney at UNL's Center on Children, Families, and the Law where I direct a project called Nebraska Youth Advocates which is focused on supporting and enhancing the practice of juvenile defense. I've been asked to provide comments on LB8. And also, adding to this testimony, prior to working at CCFL, I practiced in Douglas County Public Defender's Office for five years, primarily in juvenile court. LB8 draws upon research of best practices in working with youth and allows Probation to timely respond to both positive and troubling behavior of youth who are under their supervision. The Center for Children's Law and Policy in Washington, D.C., has done substantial research on the need for and effectiveness of graduated responses in juvenile justice. The 2013 federal census of youth in residential placement showed that one in four youth in detention were there because of technical violations of probation and not for new law violations. Developing a graduated response system helps to expand the range of nonincarceration sanctions and also promotes the use of incentives as an evidence-based tool for promoting behavior change. Research has shown that in order to be successful, the responses to the youth behavior must be certain, immediate, proportionate, fair, and tailored to individual youth. This bill provides that. In 2012, the American Probation and Parole Association, the Pew Charitable Trusts, and the National Center for State Courts examined up-to-date research which showed that the combination of the sanctions and incentives best promotes compliance with rules and progress towards goals. Further, it's important that the behavior is addressed quickly in order to create long-term behavior change. Finally, research has shown that simply increasing the severity of sanctions does not have a deterrent effect, and what is more important is that the responses are swift and certain. Youth learn from repetition, and it may take some time for a youth to associate a response with a behavior. Positive results have been seen in Maryland, California, New Jersey, Missouri, Louisiana, Arizona, and Minnesota after incorporating graduated responses in their jurisdictions. What I like about this bill is that it provides the opportunity to develop a system of graduated responses in Nebraska's juvenile justice system. It states that the responses must use recognized best practices and cannot be developed by Probation in a vacuum but, rather, with input from various stakeholders. Further, it allows for an immediate response to a youth's behavior rather than having to file a motion to revoke probation, which can take months to go before the judge. Further, it provides for the use of incentives to promote positive behavior change, and it also provides that the youth's attorney is provided a copy of any request by Probation to revoke probation, and that request must include a statement by Probation of why graduated sanctions were not utilized. It requires those who

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have care and placement responsibility of our youth to take the time to think before requesting that a youth's probation be revoked and I am hopeful that it will lead to less dependence on out-of-home placements and youth waiting in detention on technical violations of probation. Thank you for the opportunity to address the committee and I'd be happy to answer any questions. [LB8]

SENATOR EBKE: Okay. Are there any questions? Thank you for being here today, Ms. Henningsen. [LB8]

CHRISTINE HENNINGSEN: Thank you. [LB8]

LINDSEY WYLIE: Hello. My name is Dr. Lindsey Wylie, L-i-n-d-s-e-y W-y-l-i-e, and I'm the director of research for the University of Nebraska-Omaha's Juvenile Justice Institute. Thank you for the opportunity to speak in support of LB8. The proposed legislation allows for graduated sanctions for youth who have violated a condition of their conditional release, instead of detaining them. Of course we want to make sure youth are accountable, but we also need reasonable responses to youth who have technical violations while under supervision for things like curfew violations or not going to school. We know that sanctions must match the seriousness of the behavior to be effective at deterring future negative behavior. Individuals who experience excessive or unpredictable sanctions are less likely to have positive behavioral changes. Overall, studies have found that graduated sanctions are more effective at increasing youth accountability, reducing recidivism, and are more cost-effective because appropriate sanctions are being applied. In addition to graduated sanctions, the proposed legislation also allows for graduated incentives so that youth are positively reinforced when they exhibit positive behavior change and compliance with the conditions of probation. Research shows that interventions are most effective when rewards and incentive grids are used in conjunction with sanction grids. LB8 also allows the Office of Probation to establish a statewide standardized graduated response matrix of incentives and sanctions. Using standardized methods is preferred so that all staff respond similarly and so that youth know what to expect of them. People learn best when there is a response that they know will be associated with a particular behavior. This bill still allows the system to hold youth accountable if the youth fails to follow his or her probation. In that case, a county attorney may file a motion to revoke the juvenile's probation. LB8 also prevents a probation officer from detaining a youth when the probation officer believes the youth is about to commit a substance abuse violation or noncriminal violation. Again, in an effort to only apply sanctions that match the offense, we should not detain youth for violations we think may happen. The state of Nebraska should continue to serve youth in programs that are effective at keeping youth out of the juvenile justice system, prevent youth from penetrating deeper into the system, and that are cost-effective. Thank you for your time, happy to answer any questions. [LB8]

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SENATOR EBKE: Are there any questions? Thank you, Dr. Wylie. [LB8]

JULIET SUMMERS: (Exhibits 1 and 5) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s, and I'm the policy coordinator for child welfare and juvenile justice at Voices for Children in Nebraska. As a state, we all benefit when youth are held accountable for their actions in developmentally appropriate ways that promote community safety and allow them to grow into responsible citizens. In recent years, Nebraska has begun the process of reforming our juvenile justice system to produce better outcomes not just for youth but for families and communities as well. Voices for Children supports LB8 as an important next step in this process, tailoring our juvenile administrative sanctions statute to better respond to the unique rehabilitative needs that youth on probation present. Teachers have long known that to maximize learning outcomes and compliance in the classroom, children and youth respond best when you have a ratio of at least four positive incentives to one negative punishment or sanction and also when they perceive such sanctions as being fair. When it comes to adolescent misbehavior, research shows what parents already know: that the effectiveness of any punishment is more related to its certainty and to its swiftness, its timeliness, than to its severity. So LB8 would apply these commonsense principles to youth on probation by emphasizing that importance of positive reinforcement when youth are doing well relative to how they had been doing before and by increasing probation officers' ability to swiftly and fairly respond to minors who are acting out in minor ways of the probation contract. And I want to be clear that we're not talking about youth who are picking up serious new charges while on probation or new, dangerous, lawbreaking behavior. In such cases, the statute or the bill would still leave the power for the probation officer to request that the youth be detained and the county attorney file a formal motion to revoke probation. Instead, LB8 reflects a balanced approach between permitting this flexibility for probation officers to respond to minor infractions and still requiring judicial oversight and the due process of law for youth when they are being accused of being in major violation of their probation orders. And it's our belief, based on the research, that by empowering officers to respond in this swift and fair way to minor violations, that adolescent development research suggests this new structure will head off those worse behaviors and, thus, prevent further incarceration down the road. Most importantly, and what I really want to emphasize, is LB8 makes clear that incarceration in secure juvenile detention facilities is not an appropriate response to minor violations of probation that would otherwise not permit the juvenile to be detained if it was a totally new charge or totally new behavior. There is a reason that our constitution and our laws demand a showing of immediate risk to harm to self, community, to risk of flight from the jurisdiction before a youth can be incarcerated. Besides being a violation of individuals' right to liberty, the incarceration of low-risk juvenile offenders is an extremely costly and ineffective response. And here I want to point you in particular to a letter you should have received--that should be...it should be before you, you should have it--from a young woman who is at Boys Town. I got to know this young woman through a policy fellowship program that Voices for Children ran at Boys Town this fall. And so

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I know her and she is a very smart, dynamic, thoughtful young person who has experienced exactly this: being incarcerated in secure detention for minor violations of her probation contract that didn't rise to a level of dangerousness; she wasn't a threat to the community; she wasn't a risk of flight from the jurisdiction. And yet, as she puts it, she had to "sleep in a cement room and eat nasty food." So I would really encourage you to take a look at this letter that lays out from the youth's perspective what it's like to be detained and treated like a criminal when you haven't actually engaged in behavior that rises to that level. So I'll wrap up that I do want to say that the number of youth confined in our secure detention facilities has fallen in recent years, and this is really exciting to see. We went from almost 4,000 in 2011 to 2,597 in 2015 without a corresponding rise in juvenile crime. And Voices for Children sees LB8 as the right next step to continue keeping more kids out of jail who don't belong there. So thank you to Senator Krist for being a champion on behalf of Nebraska's youth and thank you to this committee for your time and consideration. I would be happy to answer any questions. [LB8]

SENATOR PANSING BROOKS: Thank you, Ms. Summers. Anybody have any questions? Okay, thank you for coming today. Next proponent. Okay, what about opponents? And is there any neutral testimony? Okay. [LB8]

DWITE PEDERSEN: Thank you, Madam Chairman. My name is Dwite Pedersen. I'm from Omaha, Nebraska. I served on this committee for 16 years sitting in that same seat as Senator Morfeld. But most of all in my life I've worked with youth, teenagers in trouble with the law. I've been associated with kids, anything from murder to shoplifting. I'm not here against LB8 and I'm not here for LB8. The difference between sanction and safety came to me when I was reading this bill and it brings me down here to let you know a little bit about what's going on in the streets with our young people and probation. They're not safe and putting them on probation alone is not keeping them safe. There's many of these young people are violating the law, stealing cars, running the streets two and three days at a time away from home, and probation has not been serving them to the point that I believe needs to be public safety. Instead of incarcerating them, and I'm not a big supporter of incarceration, but in Nebraska, especially in the Omaha area, we have a facility, YCDC (sic: DCYC), the youth detention center that was rebuilt in the '90s to be a safe and program-oriented facility, not long term but safe. Probation is having an awful hard time placing kids in there because they say they're going to be worse being with them kids. They're all private cells. They have education and get their credits. The statement I kept hearing--keep hearing--from parents and guardians is they just...they're not a danger to themselves or others. If you've got a 15-, 14-, 16-year-old driving a car who does not have a driver's license, he's dangerous to himself or herself and those he might encounter while driving. If he's on the street or she's on the street and keeps running away from home and they're not street people, the street people will get ahold of them and it won't be the kind of people they're around in the youth center. They'll be the same, the same people. I'm just saying we need to do more about safety, not long term and not incarceration as a punishment but don't...we've gone so

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far the other way that we can't even use it nowadays for safety. If they're in an individual cell, you've got medical help, mental counseling, and education, and work them through that as fast as they can to get placed in even a more structured facility where they can get help, that's what we need to do. We've got to quit leaving these kids run the streets and cause these kinds of damages. I can't...family, what a family is going through when the cops keep bringing a kid home saying, we've found him, here he is, goodnight, and right out the back window, right out the back door, they can't do anything to hold him at home. If we can't use this, let's find more safe places for them to be. Sanctions aren't the only thing; we have to remember safety, safety for those of us on the streets and those young people that are the offenders, so they don't hurt themselves or others. I have to say I'm going to kill myself before I can get help is not right. That's all I have. Thank you. [LB8]

SENATOR PANSING BROOKS: Thank you, Senator Pedersen. Does anybody have any questions for him? Thank you for coming to see us. [LB8]

DWITE PEDERSEN: Thank you. [LB8]

SENATOR PANSING BROOKS: (Exhibit 2) Okay, any other in the neutral? I guess we have two letters of support, one from Deena Griffin, which will be put into the record, writing on behalf of herself, and then one from Bub Windle who is writing on behalf of the Nebraska Bar Association. Senator Krist. [LB8]

SENATOR KRIST: A quick closing: First of all, thank you, former Senator Pedersen, for your perspective. I, too, am very concerned about safety, particularly in the metropolitan area where I see some devastating signs of juvenile crime. But I will respectfully, professionally disagree that moving ahead on what can be done for the greater percentage of our children who are in a position to be rehabilitated would keep us from also concentrating on those safety issues. And as I've often said, I'm not in the trenches on this area. And I will always respect the opinion from those who are there. But what I'm hearing is that there is a need for graduated sanctions on that end. So I ask you for support, for your support of that bill. [LB8]

SENATOR PANSING BROOKS: Thank you, Senator Krist. And now we will go into LB11. Senator Krist. [LB8]

SENATOR KRIST: Good afternoon, Senator Pansing Brooks and fellow members of the Judiciary Committee, for the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha, along with north-central portions of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB11. In recent years, the Legislature has done a great deal of work to reform the way

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our state responds when teenagers offend. We've looked into the research into adolescent behavior. We've payed attention to evidence-based interventions to the best rehabilitate...to do the best job to rehabilitate teenage offenders. And we've realigned our system funding structure to match best practices. One major piece of this reform was LB464 from 2014 which changed the way cases were filed to bring more youth out of the criminal...or the adult criminal courts and into the juvenile court proceedings where they can be held accountable in age-appropriate ways and get access to those rehabilitative services. Juvenile court is significantly different from adult court. Research shows that processing youth through the adult court is not only damaging for the youth but results in worse outcomes statistically for community safety. We based LB464 on that research and, as a result, most minors facing charges in Nebraska now see their cases start in juvenile court. That is a substantial change based upon legislation in LB464. In appropriate cases the county attorney can file a motion before the juvenile court judge requesting that the case be transferred to county or district court for criminal proceedings instead. Juvenile crime is down. Numbers of youth incarcerated and placed on probation are down. We are now on the right track and LB11 doesn't change anything about the structure we've set up that is working. This is a piece of technical cleanup, in my opinion, legislation responding to the Nebraska Supreme Court case last fall. The court held that when a minor has been charged in juvenile court, the court attorney files a motion to transfer the case to criminal court and the judge grants that motion that that kiddo can't appeal that decision until after he goes through the whole criminal trial process and is sentenced in criminal court, which could be months or even a year later. That's precious time. And when it comes to teenage years and the possibility of rehabilitation, it is even more important. This bill makes it explicit that minors can immediately appeal from one of these orders without waiting through the entire criminal process and permits the juvenile court judge to continue to issue temporary orders to keep the youth and community safe while the case is pending the appeal. I introduced this bill and, as we always do, played devil's advocate with what might be wrong with allowing the process to ask another question about whether that child who is now put in the adult court system should intentionally be there, should actually be there, or whether we could ask the second question, if you will, the second bite of the apple: Does that child really need to be in juvenile court system? At first blush, I found no unintended consequences but, as they always do, county attorneys come up with some very valid points in terms of court proceedings and just this morning a few of us sat down and talked about those unintended consequences, if you will. At that table I think there was...there were very few dissenting positions on one clear fact: What's best for the child needs to be looked after at that particular time, should that child be in adult court, should that child be in the juvenile court system. I am prepared and have engaged in those conversations with those dissenting opinions and/or people who would present a different viewpoint about that second bite of the apple. I think this is an important piece of legislation. It's too important for me to rush, so I ask you to listen to the testimony behind me and then for us to Exec on the bill as change is made to the bill. Sometimes making sausage takes a little longer than other times. So thank you for allowing me to introduce and I stand for any questions. [LB11]

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SENATOR PANSING BROOKS: Senator Baker. [LB11]

SENATOR BAKER: Thank you, Senator Pansing Brooks. Senator Krist, do you know about what the population of Douglas County is? [LB11]

SENATOR KRIST: Not being a statistician, I'm not sure. [LB11]

SENATOR BAKER: Okay. [LB11]

SENATOR KRIST: So I wouldn't hazard a guess. But I'd say it would be...Douglas County would probably be approaching 850,000, 750,000 people. [LB11]

SENATOR BAKER: Okay. And Lancaster County would be how many? [LB11]

SENATOR KRIST: Again, not being a statistician, I'm not sure...about 300,000 people? [LB11]

SENATOR BAKER: Thank you. That's all. Thank you. [LB11]

SENATOR KRIST: Yeah. [LB11]

SENATOR PANSING BROOKS: Any other questions from the committee? Thank you, Senator Krist. [LB11]

SENATOR KRIST: Yep. [LB11]

SENATOR PANSING BROOKS: Okay. Now we'll have proponent testimony. Thank you, Ms. Summers. [LB11]

JULIET SUMMERS: (Exhibit 1) Good afternoon again, Madam Vice Chair and members of the Judiciary Committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s, and I am the policy coordinator for child welfare and juvenile justice at Voices for Children in Nebraska. I'm here to support LB11. Our state policies, as I testified previously and will continue to all session, should always ensure that youth caught up in the justice system are given the best opportunity, the proven opportunity to turn their lives around and become productive adults. That's the point of a justice system and particularly important for kids. In recent years, Nebraska has actually been a forerunner of national juvenile justice reform, and we are starting to see the results in the data based on policies...or of these policies that have been based on research into what actually

works. We support LB11 today because it clarifies previous legislative intent on one such reform and we believe it will ensure that youth are afforded meaningful opportunity at rehabilitation in juvenile courts in that precious window of time that they have. So to give the background, which Senator Krist already did--I'll skip a little bit through this--but in 2014, the Legislature passed LB464 requiring that nearly all cases in which minors age 17 and younger are charged begin in juvenile rather than criminal court. This was based on years of research showing that charging minors as adults does not reduce violence or other antisocial behavior but is more likely to encourage it, particularly in lower-risk cases. Exposing minors to criminal charges and incarceration can lead to increased recidivism, increased risk of prison rape, suicide, or other dangerous outcomes in the adult system, and it infringes on parental rights and responsibilities to hold youth accountable and support their development into law-abiding citizens. Transcripts of legislative debate from 2013 to 2014 show a pretty widespread commitment by senators to ensuring that most teenage offenders have access to the juvenile court in order to maximize this opportunity for rehabilitation while the adolescent brain is still developing. And county attorneys do still retain the ability to file the highest, most dangerous felonies in criminal court and they also, as noted, may file a motion requesting that a juvenile court judge transfer a case out of the juvenile court and into the criminal court. So I mentioned the data. Our latest numbers in Kids Count that we get from Probation, from the detention facilities, etcetera, show that in 2014 there were almost 2,000 minors who were charged as adults in the county or district courts and in 2015, the year LB464 fully rolled out, that number had dropped to only 352. That's a really remarkable change. And over the same period, as I noted in my prior testimony, juvenile crime has not risen. Juvenile crime in Nebraska for the last three years or so has hung right around a little over 10,000 or rate of 10,000 out of 100,000. So we're doing better with our evidence-based policies and we have not seen an inflation in juvenile crime. There are fewer youth today in our adult prison facilities; there are fewer being placed on juvenile probation; there are fewer confined in our juvenile detention facilities; and there are fewer committed to our youth rehabilitation and treatment centers. And I would put that all before you as evidence that LB464 and the One Hundred Third Legislature's commitment to responding thoughtfully to teenage crime is really working, it's paying off. So why this bill? We support this bill because it doesn't change anything substantively about this statutory structure that was set out, and it just clarifies the timing at which an appeal can be taken. So a minor already has the ability, the right to appeal a juvenile court judge's decision to transfer the case to criminal court. The question is, just when can that appeal happen in the process? The Supreme Court recently held in the fall that when a juvenile court judge transfers the case, the minor must wait all the way through the criminal trial and sentencing before taking up that right to appeal. That can take months--it can even take over a year, depending on how complex the trial is--and that is precious time so that if it turns out later that the juvenile court erred in making that decision to transfer it, all that time has been lost. This bill would not add a new right to appeal. That appeal right already exists. It would just say you can do it right when that transfer motion happens and save that time. I see I have my yellow

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light so I'll wrap up and just say thank you again to Senator Krist and to this committee. And I would welcome any questions. [LB11]

SENATOR PANSING BROOKS: Thank you very much, Ms. Summers. Are there any questions from the committee? Okay, I have a question since I'm hearing from Senator Krist that there was a meeting with...where there was a discussion of something that...I don't know. Unintended consequences is what I think Senator Krist said. [LB11]

SENATOR KRIST: Concern, yeah. [LB11]

SENATOR PANSING BROOKS: Are you aware of what the discussion was regarding...because what's going to happen is I think somebody is going to come up and tell us the unintended consequences. You're going to be gone so we're not going to be able to hear your position on whatever those unintended consequences is. [LB11]

JULIET SUMMERS: I was present at that meeting and I don't want to speak for any other party. [LB11]

SENATOR PANSING BROOKS: Okay. [LB11]

JULIET SUMMERS: And I'm not sure if the County Attorneys Association as a whole has come to a decision on where they stand on this. [LB11]

SENATOR PANSING BROOKS: Okay. [LB11]

JULIET SUMMERS: I will say that I had the same takeaway as the senator from the meeting: that I think everyone's hearts are in the right place to do what is going to be best and most rehabilitative for youth and I think the question...my perspective is going to...and my response is that all this does, it doesn't create a new right of appeal. That already exists. It just says we're going to save that time. We're going to allow the appeal to happen as quickly as possible and allow the juvenile court to continue to enter orders like you have to be in substance abuse treatment, you have to have a curfew, you have to be following the rules of your home, you have to be going to school, you know, working through any family issues. All of those positive rehabilitative supports and supervision can still be in place while the appeal is occurring, as opposed to, if this change isn't made to the law and the Supreme Court's ruling stands, then we have a situation where the juvenile court judge orders the transfer, whether it's wrong or right. We're not allowed to even ask that question to the appellate court until months down the line and those are months that could have been used in a more positive way. [LB11]

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SENATOR PANSING BROOKS: It seems much more costly for the state, the county, for everybody if you're going through the whole process and then coming back and saying, okay, well, it should have been in juvenile court after all. [LB11]

JULIET SUMMERS: Right, and work for the parties, absolutely. [LB11]

SENATOR PANSING BROOKS: Yes. [LB11]

JULIET SUMMERS: Absolutely. So my hope is, as well, that if there is disagreement, I don't know if that's coming for sure behind me, but if there is, that it can be resolved and worked out because we do think this will be an effective way to get the question answered: For certain should this case be in juvenile court or is it more appropriate for criminal court? And then whichever that decision is from the Appeals Court, the case can move forward. [LB11]

SENATOR PANSING BROOKS: Thank you. [LB11]

SENATOR KRIST: Vice Chair, could I put something on the record at this point, very appropriate? [LB11]

SENATOR PANSING BROOKS: Sure. [LB11]

SENATOR KRIST: I'm not going to ask a question of the person. [LB11]

SENATOR PANSING BROOKS: Okay. [LB11]

SENATOR KRIST: In that meeting this morning, one of the problems is that the associations, whether it be the bar, county attorneys, may not have had a chance to have their legislative meetings... [LB11]

SENATOR PANSING BROOKS: Okay. [LB11]

SENATOR KRIST: ...and can't take official positions. So that's why at this point I think that even discussing what may or may not come out of those meetings is premature. I just want to put that in the record. Thank you. [LB11]

SENATOR PANSING BROOKS: Okay. Thank you. Thank you, Ms. Summers. [LB11]

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JULIET SUMMERS: Thank you, Senator. [LB11]

SENATOR PANSING BROOKS: Anybody else have a question? Thank you. [LB11]

JULIET SUMMERS: Thank you. [LB11]

SENATOR PANSING BROOKS: Additional proponents. [LB11]

COLLEEN CONOLEY: Good afternoon. My name is Colleen Conoley, C-o-l-l-e-e-n; last name, Conoley, C-o-n-o-l-e-y. I am a child and adolescent neuropsychologist in my own private practice in Omaha, Nebraska. I have been asked to testify primarily on adolescent brain development to give an explanation as to why adolescence is a critical time for intervention and why they require a different system than what is produced or provided or given to adults. Over the past decade, I have given several evaluations for juvenile probation and for juvenile courts. More recently, I have given evaluations and expert testimony for multiple motions to transfer to juvenile court within district courts in both Sarpy and Douglas Counties. Over that time, I have been asked to testify and talk about adolescent brain development. And I think that I'm in support of this bill primarily because it is supported clearly by research and our evolving understanding of how the adolescent brain develops and how differently it works from a younger child's brain and how differently it works from adult brains and how, in and of itself, it's a time of greater risk and it's also a time of greater potential for change and malleability or shaping. So I think for the past three decades we've clearly understood that adolescence is a time of increased antisocial behavior, criminal behavior, impetuosity, and that those behaviors don't predict future outcomes or adult behavior, that there is such a...there are two classifications that have developed and are spoken about frequently by Moffitt. And there is an adolescent-contained behavior course that tends to end in the early 20s, versus something that is more persistent or a life course. And there are valid predictors that are fairly successful in determining between the two groups and we do have tools and measures to develop those. And one that is being used more commonly is the Risk-Sophistication-Treatment Inventory and has been provided by me as in evidence in several of these motion to transfer to juvenile cases. I think that our understanding of why adolescence is a time of impetuosity has come to light through more advances in neuroimaging and the evolution of longitudinal neuroimaging studies. What we find is that we now have visual correlates of why teenagers tend to act out of impulse and don't consider future consequences in the moment. What we find is that at the beginning of puberty, the sex hormones hit the limbic system for the first time and activate a reward system or kind of goose it so that it becomes much more powerful and much more meaningful. So drive towards peer acceptance, drugs, anything that stimulates dopamine is much more enticing. And one of the more important findings is that once this system or this reward system is activated, what does not activate at the same time, which makes it different from a child or an adult brain, is that the prefrontal cortex, the part that

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should modulate, mediate, or say this might be a bad idea, does not activate. When it's not activated, there's no access to that part of the brain. And so there are certain situations where teenagers do not have forethought or the judgment that we would expect them to have in neutral situations. Further studies have demonstrated that males between the ages of 14 and 17 are more likely to see threat-neutral situations and they're much more likely to enact or engage rather than retreat when compared to adults or younger children. So there are changes that happen in the brain and part of this is also growth and development of white matter, and so it is also a great time for intervention. And oops, I'm out of time. [LB11]

SENATOR PANSING BROOKS: Well, thank you very much. We appreciate your information and your expertise. Are there any questions for Ms. Conoley? Okay, thank you very much. Next proponent. [LB11]

PAUL COONEY: Good afternoon, Senator Pansing Brooks and members of the committee. My name is Paul Cooney, P-a-u-l C-o-o-n-e-y. I'm testifying on behalf of the Office of the Lancaster County Public Defender in support of this bill. I have worked at the office in excess of, well, 21 years now, in all divisions: juvenile division; misdemeanor division; and felony division; and am currently chief deputy. In December of 2016, the Supreme Court issued three Opinions, two of which were juvenile cases and one was an adult case. The conclusion was that juvenile proceedings for transfer were not final appealable orders, and were subject to the normal rules of appeal, which is following judgment in criminal cases, so that would be following sentencing. The reason was because the transfer proceedings did not involve a substantial right and were not subject to an interlocutory appeal. The right can be statutory and the court found that the silence of the statute regarding juvenile transfer proceedings did not provide a right and, thus, it did not trigger an interlocutory appeal. LB11 provides that right such that we would have an interlocutory appeal. I want to talk a little bit about the time frame. So I currently represent a child who is now 17 years old who has been in the detention center since 16 years old on this exact sort of a case: filed in juvenile court a transfer proceeding filed by the state, granted by the juvenile court, transferred to adult court. The order from juvenile court was back in October of 2014, transfer to adult court November of 2015, to the county court. Most cases are going to transfer directly to the county court and not be a direct file into district court in felony cases. The county court has limited jurisdiction to find the issues regarding bond and probable cause. Just recently was that case bound over to district court for guilt or innocence determinations. He is now 17, will be 18 in June. And he's still sort of awaiting final judgment because now he is not enabled to participate in juvenile court proceedings. This bill authorizes him and all the other youth throughout the state who are subject to a transfer some meaningful right to an appeal. There is a due process right to an appeal. But the child should not have to wait until he is convicted or she is convicted and sentenced because, of course, if the child is acquitted, then we don't have anything to appeal. So if a child is convicted--and Senator Krist correctly noted in introductory comments on another bill--we don't imprison or incarcerate juveniles, we detain.

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That's not true without an interlocutory appeal. A child can be charged in juvenile court, transferred into adult court, convicted, sentenced to prison, then appeal the transfer that may have happened a year, 18 months, maybe two years ago, sitting in prison while this appeal is being effected to the Nebraska Court of Appeals and to the Supreme Court. So it's essential, in my opinion, to meaningfully provide quick, effective access to rehabilitative services to our youth who are the most vulnerable population in our community, from my perspective related to the criminal justice system, a real meaningful ability to engage in their constitutional right to an appeal. Absent this specific, explicit language in LB11, the Supreme Court, from my perspective, is going to conclude that any silence continues to mean that there is not a substantial right and continues to mean that my clients have to suffer the public humiliation, the felony conviction, and potentially imprisonment before they're entitled to get a corrective order for an improper transfer to adult court. No further comments, I appreciate your time. [LB11]

SENATOR PANSING BROOKS: Thank you. That's very clearly stated. Thank you. Any other questions from the committee? Okay, thank you very much for coming, appreciate it, Mr. Cooney. Next proponent. [LB11]

JAMES MARTIN DAVIS: Good afternoon, ladies and gentlemen. My name is James Martin Davis. I am an ex-president of the Criminal Defense Attorneys Association. For the past 25 years, I've been on the house of delegates for the Nebraska Bar Association. But I'm here not as a representative of either of those organizations, but as a criminal trial practitioner who has been practicing law for over 35 years and who is in criminal court and juvenile court every day. And so what I want to do is not read anything to you; what I want to do is discuss the practicalities of what we're talking about here. And I'm firmly in support of Senator Krist's amendment because the old saying is that justice delayed is justice denied. And that's exactly what's happening in juvenile court or in district court, whether it's an order from the juvenile court transferring the case to district court or a district court's refusal to transfer a case to juvenile court. The young man is doomed if...in either of those cases because he can't appeal because justice delayed is justice denied. Let me tell you, just to correct you, Senator Krist, it's not just a few months up to a year. In almost any felony cases that I have in Douglas County, and even in Lincoln, the felony cases take about a year. If we're talking about a homicide case or a manslaughter case, first-degree murder, second-degree, it's going to take at least 18 months to two years. By then, you know, your child is almost no longer a child but is a burgeoning on becoming an adult. But what happens along the way is this: There's an arraignment. And then there's motions for discovery. And then there's motions to suppress. And then there's various other motions that take place during the course of the trial that all can be issues on appeal later on. Then you try it to the court or you try it to the jury. And if there is a conviction, you've got legal issues in terms of the sufficiency of the evidence; you've got legal issues with respect to the propriety of the jury instructions. And so what happens is that you don't have a clean appeal. You know, what you have is a year later, a year and a half later, you're having an appeal, one issue about which is it

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should have been transferred to juvenile court that's lost in 15 other appellate errors that you're raising. But it's so clean what you're suggesting now, it's just...it's the beauty of it, it's the symmetry of it, and it's the justice of it, because that's the fulcrum of justice when we're talking about a young man or a young woman. Do you want them in juvenile court or do you want them in adult court? The last thing in the world we should want to do, unless it's absolutely necessary, is treat them like adults and send them to the penitentiary. They're just kids. You know, we've got to make sure that they're treated fairly. Now I want you to understand that whether a district court...in many district courts they're disinclined to transfer it and what they'll say is, oh, there's all these facilities and these programs that they have at Kearney and whatever that they could get just as well as juvenile court. That's not true. You get, just as Dr. Conoley told me just yesterday, you get on the Web site and all these things and these programs they say they have at Kearney and whatever and the justice say they have them there, well, they don't. They don't have the funds. The juvenile court is the appropriate forum to treat these kids, not Kearney, not incarceration. I mean this is the...it's the fork in the road for these kids, for so many of them. And I have a 12-year-old kid charged with homicide. He had seven different...his mother had seven different kids or 11 kids by seven different fathers. The kid doesn't have a chance. I mean so many of these young men, 15, 16 years old, it's not necessarily their fault they're where they are. And juvenile court is that institution designed, you know, specifically crafted to take care of these kids, to make sure that they don't stray again. And so that's what I'm asking you to do is to understand that it's a clean appeal. And when it goes to the court, goes to the Court of Appeals, they only have one issue: Was it in the best interest of the child to transfer it to juvenile court or wasn't it? And that's it and you don't have to worry about this appeal two years down the line where the notion of what's in the best interest of the child is lost in the background. So I'll take any questions you have because I, like I told you, I'm in court every day and I see these kinds of things and, you know, so many of the legislatures and the administrators, they don't know where those snags are. [LB11]

SENATOR PANSING BROOKS: Anybody have a question? We have status offenses and it seems like it's a status procedure in a way that's not, you know, it's not something that happens to adults where they're put into a more harsh realm of prosecution without an ability to appeal. So it's very interesting to understand what's happening. And then if you add not complete and proper access to attorneys across the entire state, that adds into the mix of this whole thing as well, it seems to me. [LB11]

JAMES MARTIN DAVIS: Oh, yeah. I mean I'm sometimes in four counties in the same day. And you go out...we have separate juvenile courts in Lincoln, Nebraska, and stuff, but you have county court judges hearing it out-state and they're doing probate and they're doing traffic tickets and DUIs and also doing juvenile court. I mean, you know, they do a fine job but, I mean, you know, and they have dual jurisdiction with respect to misdemeanors as well as juvenile court offenses. But, I mean, you know, the whole system is geared, that's why they started it 100 years

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ago, is to take care of these kids, to know that there's a difference between young people and adults. And we're just turning them into criminals if you...we're just advancing that march towards criminal adulthood by putting them in with other criminals. [LB11]

SENATOR PANSING BROOKS: Thank you, Mr. Davis. Any other questions? [LB11]

JAMES MARTIN DAVIS: Thank you. [LB11]

SENATOR PANSING BROOKS: Okay, next proponent. And you just want me to continue? [LB11]

SENATOR EBKE: Yes, finish this hearing. [LB11]

CHRISTINE HENNINGSEN: (Exhibit 2) Good afternoon. My name is Christine Henningsen, H-e-n-n-i-n-g-s-e-n, and I am an attorney at UNL's Center on Children, Families, and the Law, and I have been asked to provide comments on LB11. I direct a project there called Nebraska Youth Advocates which is focused on supporting and enhancing the practice of juvenile defense. Additionally, I practiced for five years in juvenile court in Douglas County. LB11 is a practical bill which ensures that youth have timely and meaningful access to appellate review of a court's decision to transfer to or retain a case in adult criminal court. The bill recognizes both the special status of juveniles which requires additional procedural safeguards to satisfy due process, and the significant differences between juvenile and criminal court. We all know that children are fundamentally different from adults. But the Supreme Court of the United States officially found that to be true in 2011. Adolescence is itself a transitional period, "marked by rapid and dramatic change within the individual in the realms of biology, cognition, emotion and interpersonal relations (sic: relationships)." Advances in brain science show us why youth often engage in impulsive and risky behavior. While this does not excuse the behavior, the research has shown us what interventions can put youth on a path towards success, and which interventions will actually delay or damage normal developmental processes. Time is of the essence and delays in judicial processes effectively closes the door for opportunities to positively impact a youth's life. Further, as recognized by the National Council of Family and Juvenile Court Judges, "community safety is inextricably linked to teaching juvenile offenders the skills that will change their behavior from offending to law abiding." Juvenile court is substantially different from criminal court, and the decision to remove a youth to criminal court profoundly affects a youth's psychosocial development given the rapid development and increased vulnerability to negative influences. Our juvenile code already recognizes that youth should be processed in juvenile court "whenever possible" to reduce the possibility of committing future law violations through the provision of social and rehabilitative services. Juvenile court provides care and services to youth that are not available in criminal proceedings. In contrast, the criminal code defines offenses and

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sets penalties in order to control and punish, not to rehabilitate. For instance, YRTC in Kearney or in Geneva, which is available through the juvenile court, has individually tailored treatment programs for the youth. This is in contrast to the youth prison which is in Omaha, which may have certain programming available. They may have a manual on the shelf, but that doesn't mean that youth are provided the opportunity to participate in these programs. It's directive in juvenile court that the youth get these services. It's not...it's elective in the adult system. Youth have an enhanced capacity for change and are less culpable and less deserving than adults of the most severe punishments. As such, fundamental fairness demands that youth have a meaningful opportunity to a full appeal process. This bill simply provides that a youth has access to appellate review in a timely manner. It recognizes that the decision to transfer is a critical decision and not merely a technical one. Thank you for the opportunity to address this committee and I'd be happy to answer any questions. [LB11]

SENATOR PANSING BROOKS: Thank you, Ms. Henningsen. Anybody have a question? No. Thank you so much for coming today. [LB11]

CHRISTINE HENNINGSEN: Thank you. [LB11]

SENATOR PANSING BROOKS: Next proponent. [LB11]

DENNIS MARKS: Good afternoon, Senator Ebke, senators on the committee. My name is Dennis Marks. I'm with the public defender's office in Sarpy County, Nebraska, where I've represented juveniles predominantly for the last 20 years. For the last six or seven years, I've also handled the felony transfer cases. These are kids who are charged with serious felonies in district court and we are looking to move their cases back into juvenile court. And I'm here to testify on behalf of the Nebraska Criminal Defense Attorneys Association in support of this bill, Senator Krist. The vast majority of my clients that I represent in these transfer hearings are in detention. They're not walking the streets; they're not living at home. They are in a detention facility and they appear in court in their detention garb which are basically jumpsuits. And that's significant for two reasons. The first is the time frame that we're talking about between the time of a transfer hearing, the decision, and the time that we can appeal. And I'm not going to regurgitate those time lines because I think my colleagues from Lincoln and James Martin Davis I think aptly talked about those time lines. But what's significant is what the impact of those time lines have on juveniles, especially those who are in detention. By the time a transfer hearing occurs, those kids are in detention in a juvenile detention facility for an extended period of time. After a transfer hearing is held and a decision is rendered and that decision is unfavorable, then I'm going to sit down with my client, I'm going to go over the decision, and then we're going to talk about these time frames, the very time frames that my two colleagues talked about here previously. At that particular point, it just...the look in their face, it just seems as though hope

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fades and what they tell me is basically, dude, I just want this over with. So the impact that this time frame has is in certain occasions, not every occasion, but I have had certain occasions where I've had clients who end up taking a plea of guilty rather than going to trial in order to get the process started, in order to get this over with sooner rather than later. And if you're wondering why a juvenile would plead guilty to something that they didn't do, because there have been occasions where we have literally begged clients to take this to trial and they've said, no, I want to plead guilty, and that's what they do, and if you're wondering why they would do that, we can point to concepts of adolescent development that Dr. Conoley talked about earlier. Kids are not future orientated. They don't understand the significance and the depth of the impact that this guilty plea is going to have, especially when you've got a client who is going to have to register as a sex offender for the next 15 to 25 years of their life and not just in the state of Nebraska but if they go to another state to work, if they go to another state to vacation, if they go to another state to go to school. It's an enormous impact which they cannot appreciate at this time of their life; they don't have the capacity to do so. Their immediate goal is to get this over with as soon as possible. And the second thing is, if you don't think individuals don't plead guilty to things that they don't commit, then I would just ask you to ask the taxpayers in Beatrice whether or not that happens. So I don't have anything further. If there are questions, I am more than glad to accept those. [LB11]

SENATOR PANSING BROOKS: I'm sorry, I don't think...thank you for testifying. I don't think you spelled your name because I... [LB11]

DENNIS MARKS: I... [LB11]

SENATOR PANSING BROOKS: So I think it was Mr. Marks. Is that right? But if you could spell it for... [LB11]

DENNIS MARKS: I did not. I was saving that for a question at the end (laughter). So it's Dennis, D-e-n-n-i-s, Marks, M-a-r-k-s. Okay. [LB11]

SENATOR PANSING BROOKS: Okay. Thank you, Mr. Marks. Any questions for Mr. Marks? Okay, thank you for testifying today. [LB11]

DENNIS MARKS: Thank you. [LB11]

SENATOR PANSING BROOKS: Any further proponents? No one is in the chair, so how about opponents? [LB11]

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TRICIA FREEMAN: Did you feel the chill in the air when I walked up here? I certainly did. My name is Tricia Freeman, T-r-i-c-i-a F-r-e-e-m-a-n. I'm the chief deputy county attorney in the Sarpy County Attorney's Office and I also represent the County Attorneys Association but I think that Senator Krist mentioned appropriately earlier that we have not met as a committee or as a board. And so I guess I appear as an opponent but not with a clear understanding of what we think the solution is, whether or not it's outright opposition, because we certainly have some members who are outright opposed and certainly we have some members who believe that there are certainly some changes that can be made that would make this acceptable for us. So I would offer that caveat at this point. I am somewhat off the cuff at this point because there was so much background that I thought I should provide, but most of that has been provided at this point. I would note that one of the things that came from the Supreme Court decisions that have previously been mentioned is really an extensive review of how the statutes have changed over time from prior to LB464, when it was really the county attorney's decision whether or not to file in adult court or juvenile court, to LB464, which really set out a graduated approach for those offenses that had to start in juvenile court and then could move...we could move to the adult court and then just the very serious offenses which had to remain or could remain and be filed originally in adult court. And I think that the Supreme Court essentially concluded that the transfer is not appealable because it's not expressly stated but because it's not...it doesn't affect a substantial right for which there is no redress because there is actually the ability to appeal. And so I also would like to mention that in LB464 one of the other things that happened as a result of that statute is that when the transfer options were considered, that the standard for which the court had to consider transfer changed in that there is a presumption if you're transferring from juvenile court that the case will be maintained in juvenile court unless we can provide sufficient evidence. And if the defense is transferring from county or district down to juvenile, there is a presumption that it will be transferred. So I think that there were certainly lots of protections that were put in place with LB464 to make sure that we were availing the juveniles of the rehabilitative efforts of the juvenile court. And so I definitely think that that has been contemplated as LB464 so now here we are providing yet another way or another avenue for which that can be contemplated about whether or not we're going to get yet another opportunity to have that decision, if you will, determined. So I think that I can only offer, you know, kind of my experience in Sarpy County and I will tell you that when we consider whether or not we're going to file cases in adult court for the most serious cases where we can, we're looking at the totality of the circumstances. We're looking at, first of all, the offense, how serious is the offense. We're looking at the juvenile, whether or not they've been in the juvenile court, whether or not they've perhaps exhausted the rehabilitative efforts available of the juvenile court. We're considering whether or not this is a case where you've got a kid who's 17 at the time of the offense but within a month is going to be 18 and maybe we think that there needs to be jurisdiction that extends beyond the age of 19 when the juvenile court jurisdiction terminates. And then we're also considering whether or not, based on the burden that we have to show, can we prevail, because, if we can't, then there's no reason that we would waste time because time is

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absolutely of the essence in these cases. And we know that because the juvenile isn't getting any younger; they're getting older and they're getting closer and closer to that age of 19 where that jurisdiction could terminate. And so I think that those certainly are considerations that we make when we're determining whether or not that case is going to be transferred. In terms of corrective measures, we have talked with the senator, asking that if there's going to be a right to appeal, that it be made unilateral and that both sides would have the ability to make that appeal. We've also suggested that if it's an interlocutory appeal, it should be an expedited appeal because, again, we're dealing with the interest of time and the sensitivity to those issues and we believe that that is absolutely essential if this is to proceed. [LB11]

SENATOR PANSING BROOKS: Thank you, Ms. Freeman, for your testimony. Does...are there any questions from anybody? Yes. [LB11]

SENATOR HALLORAN: You raised the question about whether or not there would be unilateral right to appeal. Will there be? [LB11]

SENATOR KRIST: I can address that in my closing if you'd like me to. [LB11]

SENATOR HALLORAN: Okay. [LB11]

SENATOR KRIST: Thank you. [LB11]

SENATOR PANSING BROOKS: I understand, Ms. Freeman, that the Supreme Court ruled that it doesn't deal with a substantial right but, of course, those rights were originally created for adults, those constitutional rights. So there really hasn't been a...we haven't gone back and created, necessarily, constitutional rights for kids on some of these things. So I'm just interested. What is the down side of allowing a child to appeal briefly? You've heard all this discussion about...I mean I think you're worried about a speedy trial but clearly, if it goes through the whole trial and then the court is overturned on that, that it isn't any speedier for you at that point. So I'm just interested in your perspective of how this helps justice move more efficiently by not allowing them the right to appeal. [LB11]

TRICIA FREEMAN: Well, they do have the right to appeal. It's just a different... [LB11]

SENATOR PANSING BROOKS: I know. [LB11]

TRICIA FREEMAN: ...time line of when that can happen. [LB11]

SENATOR PANSING BROOKS: Right: right away rather than...yes. So... [LB11]

TRICIA FREEMAN: But I guess my concern, as I mentioned, one of the corrective measures that some of us in the association would suggest is this need for there to be an expedited appeal if that's, in fact, going to be allowed because the normal appellate process at this point could take anywhere from six to nine months. So if you have a kid who is 17 now, that appeal takes six to nine months. And you're talking about trying to reverse a decision to make sure it stays in juvenile court. They're now nearly 18.5 and now you've got six months remaining if they were to prevail. And so at that point, what have you done? You know, you've got six months remaining in the juvenile court and what can the juvenile court do in six months? And I think about a case that I had and I suppose everybody can tell war stories. But I got a 17-year-old who was a month shy of his 18th birthday when he's joyriding, having had a little bit to drink, with two of his buddies going over 100 miles an hour on a gravel road and he crashes his car and he kills his two buddies. And so the...we file it in adult court because we think there needs to be jurisdiction beyond his 19th birthday at this point. It's transferred by the court and then when he gets to juvenile court he does nothing. He comes up for review, he doesn't ever get it to adjudication, and then he turns 19. Where has been the justice for those victims? [LB11]

SENATOR PANSING BROOKS: So but you're presuming that the court would automatically say, yes, it gets to be in juvenile court. And that's such a particular instance with somebody who is almost nearing adulthood. To presume that they would be automatically placed back in juvenile court and no justice would be done for that family is presuming a lot, it seems to me. [LB11]

TRICIA FREEMAN: Well, but I think that the way that the statute is written, and perhaps rightly so, it creates that presumption. I mean it requires such a...you know, evidence from us to be so overwhelming. I mean it used to be that it was a balance. There were a set of factors that were set out in the statute that it was just simply a balance. Well, now we've gone, you know, erred on the side of making sure that we avail, you know, ourselves of the rehabilitative efforts of the court and that's fine. But I think that that presumption already exists. I think that it exists in the language of the statute already. [LB11]

SENATOR PANSING BROOKS: Thank you. I appreciate hearing your perspective. Anybody else have a question? Thank you. Any other opponents? Thank you, Ms. Freeman. Other opponents? Okay. Senator Krist. Are there any neutral? I'm sorry. [LB11]

SENATOR KRIST: I can be neutral if you want me to be. [LB11]

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SENATOR PANSING BROOKS: Yeah. Were there...I'm sorry, would you...are there any neutral testifiers? No. Seeing none, Senator Krist. Thank you. [LB11]

SENATOR KRIST: You have heard me say this before. I've been here for eight years and there have been people who have come in to testify that you kind of know that you've made it, whether they come in as a proponent or an opponent, and for James Martin Davis to come in on one of my bills, I'm thrilled, absolutely thrilled. Thank you for all the proponents, and also for the concern that we talked about this morning in my office. And my pledge is to work on this and talk to county attorneys, the bar association, whoever might have any concern about changing the process. And also most of you know that my passion here has been with juveniles, juvenile justice. I find it kind of interesting that adults are definitely treated with more constitutional courtesies and privileges and their rights are protected more than our kids' are. And in this particular case, I think this is a flag or a sign that we should pay a little more attention to treating kids like kids. But I think everyone would agree that no matter what the issue, there is a time when a child needs to be charged in adult court and we have provisions for that in the statute, in the law, that would drive us to send that child into the adult court system. So again, if it's worth doing, it's worth doing right. I'll get together with those folks who want to talk about it any further. And just for the legislative record, your question, Senator, one of the first things that was brought to me by the lobby for the county attorneys was the equal right for both sides to appeal in the process. And I agreed to that yesterday. It's the vehicle for which we would make that happen. The last thing I want to have happen is for somebody to say, no, yes, no, yes, and we play ping-pong ball with this young person's life. [LB11]

SENATOR HALLORAN: Right. [LB11]

SENATOR KRIST: So we'll have to work out the details. But I think it's important that both sides have that option and I stand for any questions. [LB11]

SENATOR PANSING BROOKS: Any further questions? Thank you, Senator Krist. Back to Senator Ebke. [LB11]

SENATOR EBKE: Were there any letters? Okay. (Inaudible.) Thank you. We will now open the hearing on LB10. Actually, we'll let people leave first. [LB10]

SENATOR KRIST: Good afternoon, Senator Ebke and fellow members of the Judiciary Committee. I'm still Bob Krist. I still represent the 12th Legislative District: Omaha and city of Bennington and Douglas County. Before I start, Senator Baker, the population of Douglas is 537,256 and the population for Lancaster is 297,036. [LB10]

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SENATOR BAKER: I looked it up too. [LB10]

SENATOR KRIST: I Googled it. (Laugh) Or he Googled it. Thank you. LB10 increases by one the number of judges of the separate juvenile courts in counties having 4,000 (sic: 400,000) residents or more which have established a separate juvenile court. This bill would have a direct impact on Douglas County and the Omaha metro area. Senator Coash, who sat on this committee for many years, previously introduced the bill in 2014 and 2016. As a result, an interim study a few years ago related to barriers to permanency. That interim study was brought, but one of the suggestions made from the interim study was the issue of timely access to court proceedings. In Omaha, there are a lot of kids in the system and getting in front of a judge in a timely fashion is a challenge because of the size of the caseloads. According to the Foster Care Review Office's 2015 annual report, Douglas County had 1,264 child abuse and neglect cases, not including the Office of Juvenile Justice, Probation, or children on a trial home visit. That's 253 cases per judge. In comparison, Lancaster had 502. That was only 126 cases per judge, which basically is about half the caseload. Requesting a two-hour block in Douglas County, you must schedule that one to two months in advance. A half-day block of time is scheduled three months out and a full-day block is scheduled five months or longer. Many cases will have 18 to 24 months to resolve. Children move from their homes, spend lots of time in out-of-home care, which is a great cost to the state of Nebraska and also a child's psyche. I also offer this legislation at the recommendation of the Nebraska Judicial Resources Commission, which is an independent commission. Since at least 2008, the commission has voted to carry the motion to recommend to the Legislature an additional judgeship be created and fully funded in the Separate Juvenile Court of Douglas County. One of our problems that bleeds over into Department of Health and Human Services is the full dockets requiring a child not to have a hearing and not to come to some fruition for 24 months. That's an extremely expensive proposition and it is reflected in the fact that the contract that was let with NFC has almost doubled in cost looking in this particular area, not in total but in this particular area, for the number of opportunities for a child to get in front of a court. There has never been any opposition to this motion from any of the voting members since the motion was first carried and it has always passed unanimously. This bill has been a recommendation of the independent commission for the previous nine years and, yet, the Legislature has ignored their input for one reason or another. It's past time that we listen to these recommendations and add one more juvenile judge to Douglas County. Every time we have heard this in this committee in my experience here, and some of you are much more experienced than I, Senator Chambers in particular, there have been causes...a cause...a pause to make sure that we understand how the system works in Douglas County. But it's past time to bring I think a personality involved with making this decision, although I understand it, and in my closing I'll use the opportunity to express my own opinion on an issue in Douglas County. That's my opening and I stand for any questions. [LB10]

SENATOR EBKE: Are there any questions for Senator Krist? Okay, not yet. [LB10]

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SENATOR KRIST: Not yet. [LB10]

SENATOR EBKE: First proponent. [LB10]

COREY STEEL: (Exhibit 1) Good afternoon, Senator Ebke, members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l. I am the State Court Administrator for the judicial branch of the Supreme Court of Nebraska. The Supreme Court and the Administrative Office of the Courts fully supports this bill. We want to thank Senator Krist for following in Senator Coash's footsteps and for bringing this bill forward. Douglas County Separate Juvenile Court is one of the busiest and fastest moving courts within our state, not only in the separate juvenile courts but any county court acting as a juvenile court. The caseload of the judges in this court far exceed those of the other two separate juvenile courts in Lancaster and Sarpy County. The courts deal with issues from abuse and neglect of children, status offenses, and delinquency issues of juveniles. This is not the type of court that we want to underresource due to the nature of the cases they deal with each and every day. If you have not visited the Separate Juvenile Court of Douglas County, I urge you so that you can see for yourself the pace the court must keep up in order to stay on top of the caseload. The Nebraska Supreme Court Judicial Resources Commission has made specific requests and recommendations to the Speaker of the Nebraska Legislature for the...since 2008 to increase and add a new juvenile judgeship in the Separate Juvenile Court of Douglas County. To date, the Separate Juvenile Court of Douglas County has been underresourced and will continue to lag behind as they move forward with more and more complex juvenile cases. The second page which I have shared with you is data from our Separate Juvenile Court in Douglas County, briefly talks about the dates the letters were sent to the Speaker of the Legislature from the Judicial Resources Commission from 2008 until the last of December 1 of the past year, 2016. We have the pending cases, December 20, 2016. We have the 2016 fiscal year new juvenile filings. And that is up, as Senator Krist talked about. Filings per judge is 473. And then we have the weighted caseload report which we've worked with, with that National Center for State Courts, that puts an actual weight compared to each case. And that tells us in the Administrator's Office do we have the right resources for each court, and we can drill down specific to each judge, to each court, to each jurisdiction. That currently is at 5.69 judges. They are underresourced by almost three-quarters of a judge. And due to the nature of those cases and due to the nature of the flow of Douglas County, it is clearly warranted that an additional judge is needed in order to keep that court afloat. So thank you for your time today. And I'm here to either answer any questions you may have or provide any more additional data that you may need in order to help your decision. [LB10]

SENATOR EBKE: Questions for Mr. Steel? Senator Chambers. [LB10]

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SENATOR CHAMBERS: Mr. Steel, welcome to the Judiciary Committee. [LB10]

COREY STEEL: Thank you. [LB10]

SENATOR CHAMBERS: I'm going to ask you a question. How would you answer this question: What's the difference between my right hand? [LB10]

COREY STEEL: Nothing. [LB10]

SENATOR CHAMBERS: If I was going to ask what the difference is, there should be something I'm comparing it to. Would you agree? [LB10]

COREY STEEL: Correct. [LB10]

SENATOR CHAMBERS: What's the difference between my right hand and my left hand? What's the difference between the caseload of a judge in Douglas County and the caseload of a juvenile judge in another county where they have a juvenile court? [LB10]

COREY STEEL: I can give you all three if you would like separate juvenile court judges to compare from Sarpy County, Lancaster County, and Douglas County. [LB10]

SENATOR CHAMBERS: Do you happen to have them? [LB10]

COREY STEEL: I don't have them handy. I can bring them back down to the committee tomorrow. [LB10]

SENATOR CHAMBERS: And for my purposes, it doesn't have to be down to the last digit. How would you say their caseload compares to that in Douglas County? Is the caseload per judge, based on your recollection not specific numbers, are the caseloads as high as in Douglas County? [LB10]

COREY STEEL: No, they are not. [LB10]

SENATOR CHAMBERS: Why didn't you ask for two judges instead of one? [LB10]

COREY STEEL: The... [LB10]

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SENATOR CHAMBERS: You thought if you couldn't get one, you couldn't get two? [LB10]

COREY STEEL: The Judicial Resources Commission is the one that has put forth that recommendation of one judge and we're following suit with that as the Judicial Resources Commission has requested an additional judge. And our caseload data specifies 5.69. With that would be one additional judge so they would have six judges. [LB10]

SENATOR CHAMBERS: I'm not saying this to create a conflict between you and that commission. I won't ask you here. I can talk to you about what I want to talk to not on the record. Thanks. You gave me all the answers that you could that I was asking you. Thank you. [LB10]

COREY STEEL: Okay. And I'll bring that data down to compare the three counties and that can be passed out for the whole committee. [LB10]

SENATOR EBKE: Any other questions for Mr. Steel? [LB10]

SENATOR HALLORAN: Mr. Steel, we're talking about the...just two judges. And this is a silly question, but are there court facilities available or vacant for these judges to work in? [LB10]

COREY STEEL: Currently, Douglas County is going through a full court renovation so that all of the county court is being renovated, including all of the courts and the offices. There is a brand-new courtroom that they're building on the sixth floor. Now it's currently slated to be used for adults and currently slated to be used for the inmates to bring them over from their correctional facility and have that type of facility. The juvenile court, which is also on the sixth floor, currently only has the five courtrooms within that. So we would work with the counties like we would any other county to look for courtroom space because anytime you add an additional judge, that includes additional staffing that would come along with that as we've provided information, a court reporter. And then comes additional county staff along with that, so it's...we would work with the county to facilitate that. [LB10]

SENATOR EBKE: Okay. Anything else? Thank you for being here today. [LB10]

COREY STEEL: Thank you. [LB10]

JOY SUDER: (Exhibit 2) Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Joy Suder, J-o-y S-u-d-e-r. I am a former Douglas County Public Defender in the juvenile division, a current juvenile law attorney in Douglas County, and a

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member of the Nebraska State Bar Association's juvenile law executive committee. I am here today to testify on behalf of the Nebraska State Bar Association in support of LB10. You can see in the written document I have provided that the five judges of the Douglas County Juvenile Court carry a much higher caseload than the judges of the other juvenile courts in Nebraska. Senator Chambers, the question you had for Mr. Steel is represented in that document. One of the primary consequences of these large caseloads is a delay in case processing. For juvenile justice cases in Douglas County, the average length of time for a case from filing to disposition is 117 days. This means that a youth who has committed a delinquent act will not have the terms of their probation, the very consequences of their actions, and their personalized rehabilitative plan, that won't be addressed for almost four months from when they were first notified of court proceedings. The lack of appropriate judicial resources in Douglas County means that frequently children and parents have to wait several weeks for hearings if those hearings require more than 15 or 30 minutes to be decided. Immediate custody hearings, these are the initial hearings that happen when a child is removed from his or her parents. Oftentimes, those hearings are started and then have to be continued to be completed over the span of several weeks. This is something that neither parents nor children can quite understand and it's incredibly difficult as legal counsel to have to explain this to my clients. Trials on child welfare cases end up being broken into chunks, sometimes spread out over three months, if not more. Juvenile justice cases can see children sitting in detention for weeks awaiting a hearing where no rehabilitative services are available. These delays have real-life consequences for children and parents. The expeditious processing of juvenile cases is important for many reasons. I will highlight two of them for you now. One, to be effective, consequences for juveniles must be certain and they must be swift. If a case drags on for too long, the impact of the message of accountability and the need for behavioral change is diluted and youth feel that this is unfair. They don't get it. They don't understand it. Adequate judicial resources help children learn and hopefully change behaviors. Number two, out-of-home placements--this includes foster care, group homes and detention--they have profoundly negative impacts on youth...on young people's physical and mental well-being. Research by the Justice Policy Institute indicates that these children's educational outcomes and future employment opportunities are drastically diminished. Court delays mean that our youth are in out-of-home placements longer. The longer they're in out-of-home placements, the more negative the impact. Data from the Douglas County Juvenile Probation Office shows that in October and November of 2016 alone, in a two-month time period, ten children spent a total of 197 days in detention only to be sent home when they were finally seen by their assigned judge, 197 days with no rehabilitative services, waiting only to be sent home. Kids should not be detained because of inadequate judicial resources. Fortunately, in part this problem can be fixed by allocating appropriate judicial resources to the Douglas County Separate Juvenile Court on behalf of lawyers who practice there and, most importantly, on behalf of my clients. I represent children. I also represent parents but I mostly represent these kids that sit in detention. And it breaks my heart to have to explain to them and watch them suffer and watch them grow anxious and depressed waiting to be heard and waiting to get in front of a

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judge. I thank you for the opportunity to speak on behalf of this important measure and I would gladly accept any questions in this matter. [LB10]

SENATOR EBKE: Do we have any questions for Ms. Suder? Senator Chambers. [LB10]

SENATOR CHAMBERS: Thank you for coming. You mentioned that even with the addition of another judge, the filings per judge in Douglas County would still be greater than what's happening in the other counties. I don't see any statistics here, nor have I anywhere else that I can remember, and there was no reason to anticipate this, of the rate of growth in filings per year. You have that? [LB10]

JOY SUDER: What I have, Senator, and I don't have copies for everyone, so I can provide this at another time. [LB10]

SENATOR CHAMBERS: That's all right. [LB10]

JOY SUDER: But the administrator of the Douglas County Juvenile Court just yesterday provided me and the bar association with a document that outlines the increase in filings from 2015 to 2016. And I believe Mr. Steel referenced in his testimony that there has been a great increase. Based on our on-line JUSTICE system, I'm sure that we can gather and present to you the increase in filings going back to 2008 quite frankly. And from that I am sure that there could be a projected number provided to this committee about increased numbers of filings. [LB10]

SENATOR CHAMBERS: So regardless of what the actual number is, nobody anticipates or forecasts that the rate will go down. [LB10]

JOY SUDER: There are a lot of variables there, Senator, and I respect that question and I understand your question. I would love, as both a human being, a taxpayer, and a defense attorney, to be able to say that filings will go down. But at this point, our status is that they're going up. [LB10]

SENATOR CHAMBERS: Right. I'm just saying...asking these questions for the record... [LB10]

JOY SUDER: Understood. [LB10]

SENATOR CHAMBERS: ...from somebody who does have some understanding of it. If we are reasonable people, and we are, if we care about children and their families, and we do, a remedy

is needed for a very serious set of circumstances and the remedy should be provided. I often use analogies or metaphors. If somebody had an arm broken in three places and had to go for a medical repair and it was said we can fix two of the breaks but not the third one, you'd be grateful for what you could get but would the job be completed without the third break being fixed? If that third break is not fixed, the job has not actually been completed, has it? [LB10]

JOY SUDER: No, sir. [LB10]

SENATOR CHAMBERS: If with one judge added the problem continues to persist and it is only going to get worse by any means of calculating if we're going to be realistic, why not ask for two judges, because if you ask for one and get that judge now, then in the very near foreseeable future we're going to have the exact same situation and you have to come back and do this again. You cannot read minds, nor can I, so we'll both be speculating. Do you think...forget what this council that determines fractions of judges that you need. Do you think considering all the political ramifications of a bill like this...and I know I'm the elephant in the room on this bill in the same way that when they talk about doing something with and about the filibuster they never mention me by name; now they used to but now they don't. They have euphemism: the lone dissenter; the single obstructionist. And everybody who knows anything say, well, that's Ernie, you may as well say it. On this bill, they haven't been able to get it because of me. I have been "obe-duh-rit," as the British would say it, obdurate, as I would say it, recalcitrant, unmoving for one reason, and that's because a person sits as a judge on the juvenile court in Douglas County who I think is unfit to be there. That's my opinion. I have received complaints from parents, from lawyers, and even other judges. And because of that, I have had conversations with...I'm not going to go into...let me use an anecdote. Let's say that there is somebody who is an administrator of a system and would have the power to kind of bring pressure to bear on removing a bad judge but that's not going to be done. Then you have what might be called a war of wills, for different purposes. The administrator, for whatever reasons, may feel that this should not be done by the administrator. So a system is in place for others to judge this individual's competency and this judge consistently scores lowest when evaluated by those who have contact with this judge, but the system itself will do nothing to remove that judge. I am in a position, and I'm going to say this on the record, of having to make a decision as to whether or not my objection to that individual remains so strong that when presented with facts like these, and I know the implications they have on children and their families, it's one thing to say that I believe what I believe and I will not back away from it. But it makes no sense for a rational person to say that my ultimate intent is to provide a system where those who need it can be properly served. And even though the unfortunate family members and children who come before this incompetent judge, named Crnkovich, will continue to come before her, should I, when it's clear to me that my resisting this kind of legislation is not going to move those in the profession to do anything about it, what is it that I should do? What I am doing is saying on the record the reasoning process I went through to account for why I'm taking the position that I am now. When

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there are serious issues and serious decisions have been taken, changes should not be made for light or insubstantial reasons. But when circumstances have grown so dire that to hold to a position for the sake of hoping that it will bring about a change, that is not what a reasonable person, in my opinion, would do. I am judging myself the way I would judge somebody else who had taken the position that I'm taking. And that part of my mind which formulates judgments has pronounced judgment on me. As the Bible said to Nebuchadnezzar, mene, mene, tekel, upharsin: You have been weighed in the balance and found wanting. That's what me, that's what I, judging me, have concluded. Not only will I no longer oppose a bill like this, I'm going to talk to Senator Krist and others who are interested in this situation. And if we really are concerned about the children, and I'm convinced all those who are doing this are...Senator Krist has come back time and time and time again. Others have tried. I've talked to the Chief Justice. I've talked to juvenile judges from Douglas County. I had a meeting with some of those judges, some district judges, and a county judge in my office and they couldn't persuade me. As long as I think I'm right, nobody can move me from that. When I become convinced that I'm not right, nobody can persuade me that I am right. So to hold a position just because I've held it is not valid. And what I'm saying on this issue might free some of my colleagues to do some changing after personal evaluating. I'm going to try to persuade my colleagues to add two judges so that we don't have to go through this again. I don't believe in halfway measures. If we're going to do the job, we should do it right. And I took this time, Madam Chair, because I have a reason for doing this. It's not an easy thing for me to do. [LB10]

SENATOR EBKE: I understand. [LB10]

SENATOR CHAMBERS: And I've told people that if I believe something, I will take that position very forcefully and hold it against hell and high water. I don't use the "h" word, but we have a new member of the committee and he'd probably use that kind of language, so I don't want to leave anybody out (laughter). But when a change has to come, there should not be halfway measures. And I'm going to recite a little poem for you all that this ancient individual remembers from grade school: If a task is once begun, never leave it until it is done, for be the labor great or small, do it well or not at all. And if we're going to do this, we ought to do it well. And since the main obstructionist is willing to be removed and people could have reviewed this without taking my attitude and my view into consideration, I wouldn't be surprised if two judges would have been sought. They've been seeking a judge for any number of years. And if all those years ago one judge was needed, after the passage of these years, more than one judge is needed. I don't want this bill to have to come back year after year and piecemeal it. Now I'm going to ask you some questions. You represent the bar association. Is that true? [LB10]

JOY SUDER: Today, yes. [LB10]

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SENATOR CHAMBERS: Would you say the things you said if you didn't believe them personally? [LB10]

JOY SUDER: I would not. I believe these things personally. [LB10]

SENATOR CHAMBERS: Do you believe that it would be wise--forget politics and everything else--considering all the things that have been said to try to get two judges now, rather than get one now, still be behind the curve as far as other districts? We know that this caseload is going to continue. Would it be better to try at least to get two judges now or just take this one and then come back next year and maybe the year after? [LB10]

JOY SUDER: I believe that two judges would be appropriate, Senator. [LB10]

SENATOR CHAMBERS: Do you think you could get your backward organization to support the addition of two judges? (Laughter) [LB10]

JOY SUDER: As you have indicated, a job... [LB10]

SENATOR CHAMBERS: I didn't hear you. [LB10]

JOY SUDER: As you've already indicated, a job that is begun should get done and I will do my best to make that happen. [LB10]

SENATOR CHAMBERS: And, Madam, may I ask Senator Krist a question? This is somewhat unusual but for the record. Senator Krist, would you move to the mike. Would you be willing to try to...would you let me amend this bill to add an additional judge so we would try to get two? [LB10]

SENATOR KRIST: I'd be honored. Wow! [LB10]

SENATOR CHAMBERS: I'm speechless. That's all I have. [LB10]

SENATOR EBKE: There we go. [LB10]

SENATOR CHAMBERS: I have no more questions, no more comments. [LB10]

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SENATOR EBKE: Any other questions for Ms. Suder? Thank you for coming today. [LB10]

JOY SUDER: Thank you, ma'am. [LB10]

LINDA COX: (Exhibit 3) Chairman Ebke, members of the Judiciary Committee, my name is Linda Cox. I'm a research analyst with the Foster Care Review Board and I'm providing testimony on behalf of my director who needed to be at our Appropriations hearing. The Foster Care Review Office's role under the Foster Care Review Act is to independently track children in out-of-home care, review those children's cases, collect and analyze data related to the children, and make recommendations on conditions and outcomes for the children in out-of-home care, including any needed corrective actions. In any year we complete a case file review process on approximately 4,200 children in out-of-home care. And there's an attachment that describes our office in a little bit more detail. We review children...the cases of children in out-of-home care and on a trial home visit within the juvenile court system. This does not include all children and families who are involved in the juvenile court system, such as those who are under the office of DHHS but have never had a removal from the home or those who are involved with status offenses or delinquent acts and who have never been removed from the home. So we just wanted to make that clear that what we see is a subset of the judges' workload. The latest Foster Care Review annual report was issued on December 1 of 2016 and it contains data for the fiscal year beginning July 1, '15, through June 30 of '16. Some data from that report and from our database which are relevant for this bill include the following. There is a trend line that is on the back of the first page that shows a decline in the number of children from Douglas County in out-of-home care compared to 2012; however, it also shows that the numbers of children in out-of-home care have been increasing since a low of 1,264 was achieved in January of 2015. In fact, as of this month, there were 1,568 DHHS wards from Douglas County in out-of-home care. We currently see that there are more entries than exits from out-of-home care for DHHS wards from Douglas County. For example, in 2016, 1,104 entered while 1,050 left, which means there are more children who are remaining in care, more children who will need court hearings and etcetera. The average length of time in out-of-home care for HHS wards in Douglas County remains for over one year; in fact, 467 days as of last year. Based on other data that's available for Douglas County, we also know the following. Douglas County has a slightly higher rate of removal in out-of-home care per 1,000 youth in the area compared to the remainder of the state. Douglas County has a slightly higher time from removal from the home to termination of parental rights proceedings. One-third of the cases in the Douglas County Juvenile Courts did not have an adjudication hearing within 90 days and over 40 percent of the cases in Douglas County Juvenile Court did not have a timely six-month review hearing. And some of this data is from collaboration with the Court Improvement Project. In March of 2015, our quarterly report focused on the collaborative work done with the Barriers to Permanency Project. This group thoroughly analyzed all children at a point in time that were in out-of-home care for three years or longer across the state. Analysis within that report found that in the Eastern Service Area,

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which is Douglas and Sarpy County combined, 46 percent of the children were in out-of-home care but 67 percent of the children who had been in care for three years or longer. Statewide, the top reasons were case management and supervision issues and court delays, continuances, and full dockets, scheduling issues and related. For Douglas County, this was found to be 22 percent of the cases reviewed. We have consistently recommended that improvements need to be made to ensure that prompt judicial proceedings happen for the best interest of the children. For example, one of the FCRO recommendations in our annual report was that the progression standards for the separate juvenile courts and county court judges sitting as juvenile courts be implemented by the Nebraska Supreme Court. These progression standards will ensure that delays do not occur and hearings are held timely. When standards are needed, it also requires that there is court time available to conduct these hearings whether that be by another judge or through the utilization of court referrals as allowed under statutes. Thank you very much for your time and I'm available for any questions. [LB10]

SENATOR EBKE: Thank you, Ms. Cox. I wonder if...I don't think you spelled your name for the record. Could you? [LB10]

LINDA COX: Oh, I'm sorry, yes: L-i-n-d-a C-o-x. [LB10]

SENATOR EBKE: Thank you very much. Are there any questions for Ms. Cox? Okay, thank you very much for coming. Any other proponents? I see none. Any opponents? [LB10]

VAUGHN CROWELL: My name is Vaughn Crowell, V-a-u-g-h-n C-r-o-w-e-l-l. I'm representing myself here this morning...or this afternoon. I am an opponent of this bill but I would like to first thank Senator Krist for his years of helping in the juvenile justice reform. On day one when Senator Krist talked about how dark this Capitol Building was at midnight, there's no doubt that he wasn't leaving his office after working on judicial reform, juvenile justice reform. LB464, one of the things that was near and dear to my heart, and I'm sure Senator Krist worked on that, was when, and I'm reading from the bill which went into law: Illnesses that make attendance impossible or impractical shall not be a basis for referrals to the county attorney. That was the glitch in LB800 that Senator Ashford had recognized--and thank you very much for working on that and getting it fixed--LB894, which stated, "to require the appointment of counsel to (sic: for) juveniles; to prohibit the waiver of counsel in certain circumstances," another thing that was worked very well on and very diligently. With respect to the number of cases, I looked at the Nebraska judicial branch annual case report, separate juvenile courts, and under Douglas County in 2010...there's a ten-year history here. In 2010, it shows 3,109 and it's calling this case count including supplemental petitions filed in separate juvenile court. Now we know what happened in 2009, LB800. Every kid that had 21 days out of school was going in front of the county attorney. In 2016, that number is 2,365. It's a 25 percent reduction. So these things that you have

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done have helped reduce the number of kids that are going to court and we appreciate that. My thoughts are there is more than one way to do things. There are some other options that I would like you to consider. I'm not an attorney. I'm healthcare by trade. But I can find a statute if I need to and there's a couple concepts I'd like you to keep in mind because these are going to be a little bit radical, so you just bear with me. The first concept is that when I started looking at all the statutes and said, jeez, you know, I don't understand this, I'm not an attorney, these...there's so many statutes, juvenile statutes, but I realized, you know, I know the people that own these laws. I voted for one of them in Legislative District 31 and he's got 48 friends down here that own those laws from A to Z. You can change whatever laws you need to. So I put that aside and said, you know what, the next thing we need to worry about maybe is what does the constitution say about juvenile courts. So I went and read. I found Section 5...or Article V-27 and I'd like to read that, just a part of it, to you. "The state shall be divided into juvenile court judicial districts that correspond to district court judicial districts until otherwise provided by law." Let me read that one more time. "The state shall be divided into juvenile court judicial districts that correspond to district court juvenile districts until otherwise provided by law." Now, please, just kind of keep that in the back of your head there. Some of the things that I think that we could do a little bit differently, number one, is LB10 has almost \$2 million in it and now, if we're going to add another, request two judges, it's even going to be more, about \$2 million, and this was from the county's portion of what would have to be paid. And in talking to the commissioner that is in my district, this is unfunded \$2 million that we need to come up with if we decide to put two more judges on there. And I see my yellow light is on so I'll be brief with these. Let's think outside the box, maybe offer an amnesty day for first-offense status offenders or an amnesty period, a one-time, good-time deal. This morning Senator Chambers said sometimes you can look at a child and they understand what you mean by the look and they'll do the right thing. Some children take a lot longer to lead them on and get them where they need to be. I think if you offered an amnesty day for first-offense status offense, first-offense delinquency charges with where they've made restitution to the victim, you could push a lot of those cases off and reduce your caseload, which seems to be the big issue. The other thing that I'm asking you follow me on is that the...my time is up so I'll... [LB10]

SENATOR EBKE: Go ahead and...one last thought. [LB10]

VAUGHN CROWELL: The Nebraska Supreme Court or the Nebraska Constitution allows you to look at the districts of the juvenile courts. We have in Douglas County it goes from Dutch Hall Road down to Harrison Street and from the river east...or west over to the Platte River. If you took Dutch Hall Road to Harrison and from the river over to 90th Street and had a swatch of 300,000 inhabitants, you could reduce a number, a judge in the juvenile courts because you'd have 300,000 inhabitants that went to that separate juvenile court that are in that subdivided county now. And then everything from 90th Street west you send to your county courts that would act as juvenile courts, as they do in the other 90 counties in the state. Now whether or not

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that's feasible, whether or not the attorneys are going to try to shoot me on my way out the door, but it's a thought other than adding a second judge and then telling the Douglas County taxpayers, oh, by the way, here is an unfunded mandate for \$4 million now to build out your courtroom and add everything that you need to do. This would be a temporary solution to give us some time to put some money together and so that we could budget for the additions of those judges. [LB10]

SENATOR EBKE: Okay, thank you. [LB10]

VAUGHN CROWELL: Thank you. [LB10]

SENATOR EBKE: What questions are there of Mr...Krohl (phonetically), right? Crowl (phonetically)? [LB10]

VAUGHN CROWELL: Crawl (phonetically), C-r-o-w-e-l-l. [LB10]

SENATOR EBKE: Crowell, Crowell, yeah. Any questions? Thank you for coming today. [LB10]

VAUGHN CROWELL: Thank you. [LB10]

LAURIE FLYNN: I'm just a little bit emotional after sitting here and listening to all this. I literally will fight this bill if I have to stand outside... [LB10]

SENATOR EBKE: Could you give us your name, please. [LB10]

LAURIE FLYNN: Oh, I'm sorry. Laurie Flynn, L-a-u-r-i-e, Flynn, F-l-y-n-n. I've testified before this committee before. I just feel like if somebody says, okay, let's bring in two more judges and then we can divide them all up and I don't ever want to be the, what, 100 or 200 that gets thrown under the bus and get stuck in Crnkovich's courtroom again. If there's so much...if there's no time up there, then why would they waste time on cases that literally were not cases? My case, I had Julie Rogers, the Nebraska Inspector General, backed me. I had media backed me. I had senators that backed me. And Crnkovich stood up on her...or sat on her bench and fought and like dug in her heels and wouldn't send my kids home when there was no case. Finally, when it became I'm not going to agree to anything, try me, try me or give me my kids back, she recused herself. And when she recused herself, first they assigned me to a judge in Lancaster County. I live in Douglas County but I got assigned to Judge Reggie Ryder who didn't want the case because he had heard about it apparently. Who wanted it? It was a bad case and Crnkovich had screwed it up so bad.

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So I got the retired judge thing and literally went before her once and my kids were home that day and that was two years ago and it was actually a month after I had a heart attack and I had to go deal with that. But if you put two more judges up there, I don't care if you put ten up there, there's still going to be a certain number of families that go into the hellhole literally. And Corey Steel, I don't know how many times I've called him, I've sent him e-mails, I've...nothing gets done. I've complained. You can't fight them. And if we don't have you, the senators, to help us, then we might as well just lay down and give up now and just let her do whatever she wants to do. Literally nothing that I just said is what I wrote down that I was going to say. I don't even know if I can...I'll just...I oppose LB10 because my fear is that more judges means nothing more than more children unjustly ending up in the broken, broken system that is the Nebraska juvenile justice system, literally the sixth floor of our courthouse. You know, Vaughn had said that the cases were going down. I show numbers are going down too. So there's that. I gave you the brief synopsis of my case. What they're doing up on the sixth floor in Douglas County isn't working. Again, I don't care if you get ten more judges. Children and families have become valuable income stream for the state of Nebraska and parents are starting to demand that judges, lawyers, and our state senators be held accountable for what is happening to our children and the parents in Douglas County's juvenile court system. It is becoming harder and harder to find legitimate cases out of the many, many cases that end up in our juvenile courts, especially when there's CPS involved. If the judge...in my case, the worst thing that it said, I failed to give my daughter a proper meal. It said this happened once. Are you telling me a judge does not have enough discernment to say, really, we've removed these...you know, a child for this? Well, not only did the judge not have the discernment, but she kept him for six more months, literally kept my kids, who were abused in foster care. So, you know what, and I've never even got an "I'm sorry" from anybody, nobody. Oh, the NFC workers who also backed me...and my yellow light is on, so I just...I refuse to support any bill that lets them continue to do what they're doing because it's so broken. And it's not just Crnkovich but she's the head of the dragon, so. And again, I'm sorry I'm a little bit emotional. [LB10]

SENATOR EBKE: Okay. Any questions for Ms. Flynn? Senator Chambers. [LB10]

SENATOR CHAMBERS: Not really a question. As you know, the government of this state under the constitution is divided into three departments: the executive headed by the Governor; the legislative by the Legislature; and the judicial. Although the Chief Judge is the administrator of that system, the judges altogether make up the judiciary. [LB10]

LAURIE FLYNN: Right. [LB10]

SENATOR CHAMBERS: The Legislature cannot remove a judge except by way of impeachment and there has to be something done that would constitute an impeachable offense.

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In the same way that a complaint will not be entertained against a judge simply because of a decision that was made, those things are handled by way of appeals. The Legislature could not very well succeed in impeaching a judge because of the decisions that the judge makes. I have managed to get judges disciplined, suspended, one of them kicked off the bench, not just because of a decision but because of things they said and did that were completely outside the pale. What might have to be done with Crnkovich, and it's too late now because she was just retained again, is to have an organized effort on the part of the public to vote against her. Even though she is rated lower than other judges, the Supreme Court apparently feels there may not be enough there for removal on that basis. But if there were enough people with enough specific things, not just she makes stupid decisions...I've said that through the years. I've mentioned it. But document things that are said during these proceedings where she low-rates people. [LB10]

LAURIE FLYNN: She won't give people transcripts. [LB10]

SENATOR CHAMBERS: Well, have witnesses, people there who can write down what was said. I haven't witnessed any of the things that I complained about with reference to these judges so you can't dismiss out of hand every recommendation that's been made. But the Legislature cannot remove a judge. [LB10]

LAURIE FLYNN: Again, and I, you know, emotionally, I... [LB10]

SENATOR CHAMBERS: And I went through a lot. [LB10]

LAURIE FLYNN: Intellectually I absolutely understand that. [LB10]

SENATOR CHAMBERS: Excuse me. This is why I explained why I changed my point of view. I can let...well, I'm not letting my opposition to Crnkovich inhibit what is being done for all the other children and their families who, because of inadequate judicial resources, cannot even get a day in court. The more alternatives there are to Crnkovich, the less action she will be involved in, the fewer cases. So we have to do what can be done because we cannot always do what we think ought to be done. So if you or anybody else can get me documentation of things that she has said from the bench, now, are not there court reporters when these proceedings take place? [LB10]

LAURIE FLYNN: Transcripts are changed. Mr. Crowell's transcripts were changed. [LB10]

SENATOR CHAMBERS: So comb the transcripts and find statements that you think are inappropriate. [LB10]

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LAURIE FLYNN: I can't get my transcripts. [LB10]

SENATOR CHAMBERS: Say it again? [LB10]

LAURIE FLYNN: My transcripts, I guarantee you, I know she did things that were wrong. I... [LB10]

SENATOR CHAMBERS: Then here's what I would advise you to do, and some people have offered me transcripts and I don't read it the way they did. If there are things that are said that are insulting, that are demeaning, then I will do what I can on that. But it can't be just because she gave a decision that I think is boneheaded. That's not enough. I think something should be done, but I have to deal with the system as it is, not the way I think it should be. [LB10]

LAURIE FLYNN: I mean I was put under a gag order. [LB10]

SENATOR CHAMBERS: And I don't want to carry this out because we don't handle... [LB10]

LAURIE FLYNN: Right. [LB10]

SENATOR CHAMBERS: ...people's specific grievances here. [LB10]

LAURIE FLYNN: Right. [LB10]

SENATOR CHAMBERS: And I don't want to trigger that by what I've said. [LB10]

LAURIE FLYNN: I just don't want another family, because it's...my kids are now 19 and 18.5. I think they're done with us. I pray that they're done with us. But, I mean, I was put under a gag order. No Nebraska family...it could happen to any of you. It could happen to your brother or sister's kids, grandkids, a gag order, literally a gag order. But the Nebraska Supreme Court said that's the constitutional bedrock by which all other amendments fall and it's...or all other rights fall. So how do we...I don't know. But I do appreciate it. Oh, does anybody else have any questions? I'm sorry. [LB10]

SENATOR EBKE: Any other questions? [LB10]

LAURIE FLYNN: Thank you. [LB10]

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SENATOR EBKE: Thank you for coming today. [LB10]

MOLLY FLYNN: Hi. I'm Molly Flynn, M-o-l-l-y F-l-y-n-n. I'm against this bill because I was in foster care and it was proven that it was just like made up and after six months it was dismissed. But I was still taken away for that. And I feel like we don't need any more judges and need to be like held accountable for what they've done to families and like how they ruin them. And they need to be accountable for the cases they keep in the court that don't need to be there, like the one where I got taken away for six months. [LB10]

SENATOR CHAMBERS: Could you speak a little louder, please? [LB10]

MOLLY FLYNN: Oh. Okay. They need to be held accountable because like I was taken away for six months and they proved that it was like dismissed because it was just made up and they need to be held accountable for that. So we don't need any more. [LB10]

SENATOR EBKE: Thank...are you finished? [LB10]

MOLLY FLYNN: Yeah. [LB10]

SENATOR EBKE: Thank you for coming and telling your story. Does anybody have any questions for Ms. Flynn? Thank you. Other opponents? Anybody neutral? Okay. Thank you to everybody for using the on-deck chair. That seems to be working okay, so. [LB10]

JAMIE LOGAN: Thank you. Thank you, Senators. My name is Jamie Logan, J-a-m-i-e L-o-g-a-n. I'm not here either opposed or for it. I'm pretty much neutral. I'm more...oh, my goodness. I've never done this before so bear with me. I apologize. [LB10]

SENATOR EBKE: That's okay. Go right ahead. [LB10]

JAMIE LOGAN: First of all, I want to thank Senator Krist because, for one thing, he's the only one that replied to my e-mail I sent you back in 2011 about my case. My daughter was taken from my home on August 23 of 2011 for a dirty home. The case was not adjudicated till January 22 of 2012, at which time they adjudicated based on the...oh, goodness, bear with me. I'm so sorry. I am trying not to get too emotional about... [LB10]

SENATOR EBKE: It's okay. [LB10]

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JAMIE LOGAN: Based on a psychologist who worked from Beneficial Behavioral Health, the evaluation was done in October of 2011. This "supposably" psychologist now is sitting in the federal penitentiary for providing false documentation and--oh, I can't remember--oh, Medicaid fraud. They left out all the people that she had worked with in the juvenile system which was...one was my daughter. They suspended our visits two days after I started at College of Saint Mary. We were supposed to be in the Mothers Living and Learning dorms but I had to go into the regular dorms due to the fact that my daughter wasn't with me. I had the support of my church. I had a ton of support behind me. But they fast-tracked. I know the day, I know the exact hearing when they found out that she was not...she passed the board with an 88. I have to say that. She's never been...she never...she's not who she...she wasn't even who she said she was. Her name is Annette Crawley. She was practicing under Kenya Sade Bryant. She's probably out of the penitentiary by now, but I have tried. I have talked to several different people. Once they suspended our visits, it's very easy for an eight-year-old child to be persuaded into thinking things were different than what they were. One incidence may be taken out of context and created and when you don't get family therapy, you don't get the time to see your daughter. You don't get time and you find closure to work on any of this. And I'm not the only person. I'm not the only family. My family is not the only family that had to suffer this. I have talked to the Attorney General's Office. I have talked to several attorneys, including my own that represented me who stated that it wasn't because of this psychologist that my rights were terminated. Okay, I get that. But it was because it was based on her decision for our visits to be suspended that broke that bond. My daughter is now 13. There is no money in the world that you may take away the time I've lost with her and the time she's lost with me. I just wanted...you know, if somebody would have just come to me and said, we made a mistake, this was an accident, instead of they take...they took and sealed the document that had her name on it and changed it from "Exhibit 8" to "Exhibit 1." Nobody has ever said sorry. Nobody has ever taken the time to try to fix it, to try to help us. I'm grateful my daughter is in what would appear to be a very good foster home. I know the foster parents are...love the kids they have. They're doing it...they're not doing it for the money, they're doing it for the children. But she's not in my care. I've missed all these years. I have not seen or talked to her since January of 2012. I have no idea what her...and she's 13 years old now. I don't want her life to be abnormal upheaval. I don't want to bring a civil suit. I don't want to do anything like that. I just want to make sure that all these children that were affected by this lady get the help they need, all these families get the...where is the transparency? Where is the responsibility? I mean I have...grant you, I am not perfect. I am very far from perfect and I've been in the juvenile court system way too many times to claim anything other than that. I've made many mistakes. For the first time in my life, my life was on the right path. I was doing a good job. I didn't have the money. Like I said, I know the day that they found out because there was...the whole courtroom was full of attorneys. I asked my attorney what was going on. She said, nothing, they're always here. I said, no, no, no, NFC's attorney is not here and that's...yeah, I see the red light is on so go ahead. Is there any questions? That's...I just don't know where else to go with this. I'm sorry. It may not be the appropriate thing but I don't think we need any more

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judges until we get some of the judges there to be held responsible. And I don't have any Crnkovich, so it wasn't my judge but... [LB10]

SENATOR EBKE: Okay. Thank you. Are there any questions for Ms. Logan? Thank you for coming today, appreciate your testimony. [LB10]

JAMIE LOGAN: Thank you for having me. [LB10]

SENATOR EBKE: Thank you. Are there any other folks testifying in the neutral? Do we have any letters? Okay, we have no letters. This will close the hearing...oh, Senator Krist, I'm sorry. Jumping ahead there. [LB10]

SENATOR KRIST: If you compare the system today to the way the system was seven, eight years ago, we're different. We're treating children different. We're treating families different. I know that there's people who have come up that don't agree necessarily with the approach. But we have to do something to fix the situation. Judge Crnkovich has created quite a reputation for herself and has always scored very, very, very low on those parameters that would judge the judge. She retires in two years. She turns 65. She'll have 20 on the bench and 65. That's the good news. The bad news is the system is what it is today and we have to do something to fix it if it's one judge or two judges. But I believe some of the reasons that some of these people have been mistreated and that there have been some problems has to do with the quality of judges and the number of judges and the number of cases that they hear. I'll have a request for you in Executive Session when we talk about how fast this should be put out there and the amendments that may be added, which I hope there are. And out of respect for everyone who has come, we'll make it better. Thank you. [LB10]

SENATOR EBKE: Thank you, Senator Krist. This concludes the hearing on LB10. Have a good day, everyone. Thank you. [LB10]