

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

Judiciary Committee  
February 23, 2017

---

[LB178 LB191 LB289 LB394 LB487]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 23, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB178, LB289, LB191, LB394, and LB487. 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: Okay. Good afternoon. Welcome to the Judiciary Committee. My name is Laura Ebke. I'm from Crete representing Legislative District 32. I Chair the Judiciary Committee and I would like to start off by having those senators who have appeared go ahead and introduce themselves.

SENATOR HALLORAN: Hi. Steve Halloran, senator from Hastings, Nebraska, which is Adams County, western and southern Hall County.

SENATOR PANSING BROOKS: And I'm Senator Patty Pansing Brooks from Legislative District 28 right here in the heart of Lincoln. [LB178]

SENATOR EBKE: And fear not, other senators will show up. Some of them have bills in other committees and may be a few minutes late. Senator Hansen from Lincoln, Senator Baker from District 30, Senator Morfeld from Lincoln, Senator Krist from Omaha, and Senator Chambers from Omaha will be here as well. We are joined today, assisted today by our committee clerk Laurie Vollertsen and by our committee counsel Brent Smoyer. And we have Kaylee and Toni here today. At the table over there by the door you will find some yellow testifier sheets. If you are planning on testifying today, please fill one out and hand it to the page when you come up to testify. This helps 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 just record your position. We'll begin bill testimony with the introducer's opening statement. Following the opening we'll hear from proponents, those for the bill, and then opponents, followed by those speaking in the neutral capacity. We'll finish with a closing statement by the introducer if he or she wishes. We ask that you begin your testimony--this is very important--by giving us your first and last name and then please spell them for the record. That helps us to make sure that we've got everything matched up and that the record is good. Also, we have an on-deck chair or two over there. Basically what I'd like, if you're going to be speaking on a bill when you're a proponent move to the front when the proponents are going so that we can keep things moving. We have quite a few...we have quite a few bills up today that may take a little while so we want to make sure that we don't have a lot of...that we keep things rolling. We've been joined by Senator Krist. Hello. [LB178]

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

Judiciary Committee  
February 23, 2017

---

SENATOR KRIST: Hi. [LB178]

SENATOR EBKE: How many people are planning on testifying on this first bill? Okay. We're going to be running on a three-minute testifying schedule today. And so when you begin your testimony the green light will come on. When you have one minute, the yellow light will come on. And when you have...when the red light comes on, please wrap up as soon as possible. Okay, I understand that sometimes you're in the middle of a sentence and it's distracting and there's something that you really want to do. But let's not go two minutes beyond. So finish your sentence and I will try not to, you know...we'll try not to get too excited about it, but we would like to keep things moving. As a matter of committee policy, just a reminder to everyone if you've got your cell phones here please make sure that they're on silent or vibrate mode and then make sure that if the phone rings and you need to take a call please step outside. It gets kind of tricky if people are talking in the back of the room. Also verbal outbursts, applause are not welcome or permitted in the hearing room. We want to make sure that we're respectful to everybody who's here and everybody gets a chance to testify without any distractions. One more thing...and Senator Hansen is here now. One more thing, you may notice committee members kind of coming and going. Again, it's because we have bills in other committees. It has nothing to do with the importance of the bills being heard. But with that, we will move on and Senator Bolz, LB178.

SENATOR BOLZ: (Exhibits 10-12) Good afternoon, members of the Judiciary Committee. My name is Kate Bolz; that's K-a-t-e B-o-l-z, and I represent District 29 in south-central Lincoln. I'm here today to introduce LB178. This bill addresses a gap in civil protection orders for victims and survivors of sexual assault. There exists today two forms of civil protection orders: harassment protection orders and domestic abuse protection orders. For a harassment protection order, the act of harassment is defined as composing a series of acts over a period of time evidencing a continuity of purpose, so it cannot be applied to a single abusive incident. Under the protection from Domestic Abuse Act, a protection order is authorized for a victim of domestic abuse which occurs between household members. That explicitly states that a dating relationship does not include a casual relationship. These definitions would preclude the establishment of a protection order for someone who is sexually assaulted by a classmate, a neighbor, or a colleague without a second or subsequent assault. LB178 addresses that gap allowing a person who is sexually assaulted the opportunity to file a protection order to keep the perpetrator from communicating with the victim. I've had some questions about the scope that this bill might cover. Statistics from the Crime Commission say that in 2015, 653 forcible rapes occurred statewide. Of course not all of those would fall under this particular category. Not all sexual assaults are reported. There are multiple types of circumstances, but I think it's clear that victims of sexual assault exist and deserve protection. I modeled LB178 after the existing harassment protection order with just a few changes. The protection order in LB178 has a duration of two years rather than one year and the penalties for a violation of the protection order

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

Judiciary Committee  
February 23, 2017

---

are more severe than under a harassment protection order. The duration is longer due to the length of time criminal or civil proceedings can take. The penalties are higher due to the violent nature of sexual assault. I have following me today advocates from the Nebraska Coalition to End Sexual and Domestic Violence, a staff person from Creighton University's Violence Intervention and Prevention Center, and an individual who would have benefited from this legislation. I've also handed out, along with the fact sheet and some data from the Centers for Disease Control, a letter sent to my office from a survivor of a rape who would have had some remedy...who have had a remedy under this bill following her assault. I appreciate your attention. I'm happy to answer any questions. [LB178]

SENATOR EBKE: Any questions? I see none. [LB178]

SENATOR BOLZ: Thank you. [LB178]

SENATOR EBKE: Thank you. Okay. First proponent. [LB178]

STEPHANIE HUDDLE: (Exhibit 13) Good afternoon, Chairperson Ebke, members of the Judiciary Committee. My name is Stephanie Huddle, S-t-e-p-h-a-n-i-e H-u-d-d-l-e. I'm the public policy coordinator for the Nebraska Coalition to End Sexual and Domestic Violence and I am here to testify regarding our support of LB178. Nebraska Coalition to End Sexual and Domestic Violence is a statewide nonprofit advocacy organization committed to the prevention and elimination of sexual and domestic violence. We provide training and program capacity building to Nebraska's network of domestic violence and sexual assault programs, supporting and building upon the services they provide. Our mission is to enhance safety and justice by changing the beliefs that perpetuate domestic violence and sexual assault. We believe LB178 will provide a form of relief for sexual assault survivors and addresses a serious gap in Nebraska law. Sexual assault is recognized by the FBI as the second most violent crime, the first being murder. With most crimes, victims have the opportunity to avoid the scene of the crime. Sexual assault victims can never escape their crime scene because it's their body, and they have to live with daily reminders of the violence committed against them. Sexual assault is a pervasive problem throughout the country. According to statistics from the National Sexual Violence Resource Center, nearly 1 in 5 women and 1 in 71 men have experienced rape or attempted rape; additionally, nearly 1 in 2 women and 1 in 5 men have experienced some type of sexual violence other than rape at some time during their life. Senator Bolz shared statistics from the Crime in Nebraska 2015 report, so I will not go over those again. But something else that is important to note is that across the country, sexual assault continues to be one of the most underreported crimes, with an estimated 63 percent of sexual assaults never being reported to law enforcement. In Nebraska, we recognize the complex relationship dynamics present in domestic violence cases, where victims know their perpetrators. Current law provides relief for victims through

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

Judiciary Committee  
February 23, 2017

---

domestic abuse protection orders. And we also offer protection from harassment in the form of harassment protection orders. But what happens when a victim of sexual assault needs protection from a perpetrator? Right now, there is no such relief for the majority of victims of sexual assault. In many cases, they will not qualify for a domestic abuse protection order because they do not fall under the definition of family or household member, nor are they in a dating relationship as defined by Nebraska Revised Statute 42-903. However, contrary to still-existing beliefs, the majority of sexual assaults are not committed by strangers, but someone known to the victim. Sexual assault victims will also likely not qualify for a harassment protection orders either. Yet because the majority of sexual assault victims know their perpetrator, they still face the very real possibility of seeing and coming into contact with this person, sometimes on a daily basis. By passing LB178 you are providing additional protections for Nebraskans by closing a serious gap in our current law. More importantly, you are ensuring victims of sexual assault you care about their safety. By creating a sexual assault protection order, you would be joining 33 other states in helping victims of sexual trauma heal from the horrendous crime that has been perpetrated against them. The Nebraska Coalition to End Sexual and Domestic Violence asks you to advance LB178. Thank you for your time and I'll be happy to try and answer any of your questions. [LB178]

SENATOR EBKE: Thank you, Ms. Huddle. Any questions? Okay. Thank you. [LB178]

LAURA MELCHER: (Exhibit 14) Dear Chairperson Ebke and members of the Judiciary Committee, my name is Laura Melcher, L-a-u-r-a M-e-l-c-h-e-r, and I am here to testify in support of LB178. I am here today as a victim of sexual assault in the form of rape. After the incident, I applied for a protection order under Lancaster County, which in turn was denied. My case did not fit the basic criteria to obtain a protection order with the current laws set in place. I was not granted the protection that I both wanted and felt I needed. This violent crime occurred on December 15, 2013, the weekend before my finals week. I was not going to let my perpetrator steal both my virginity and the grades I had worked for that semester. So, as a full-time student, I was on campus the entire week after. Walking to my classes I was afraid of the possibility that my perpetrator could cross my path, so much so that the entire week I was not left alone for one minute. My brother escorted me to the door of each final I had, waiting there until I had finished. With this bill I strongly believe that, as Stephanie has said, a gap will be filled in Nebraska Law. I am an example for you today, representing the one in five women who have experienced the pain, the embarrassment, and the feeling of helplessness that comes with being a victim of sexual assault. LB178 could help serve as a beacon of hope, and give victims a sense of justice and security as they cope with the physical and psychological pain. Although this protection order could serve men and women both on and off the college campus, I believe it especially pertains to cases such as mine. As a student on campus almost every day, a victim could end up in the same class as their perpetrator, if also a student. This bill could offer security to help prevent that from happening, acting as a reassurance that we, as a society, do not take this crime lightly. The

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

Judiciary Committee  
February 23, 2017

---

sense of security is one of the most important needs a victim has in their time of vulnerability. I am asking on behalf of all victims, and of anyone who should become one, to pass LB178. It will not take the pain away or the memories, but coming from personal experience, that is not what I needed. At the lowest point in my life, I was looking for a form of protection and justice as I felt exposed and used. I am praying with my whole heart that for those who experience the same thing that I have, can find even the slightest comfort in knowing they have protection. And even more, I hope you can see how you all are able to be the ones who offer them just that protection. Thank you for your time and for listening to my testimony. If there's any questions, I'll be happy to take them. [LB178]

SENATOR EBKE: Thank you, Ms. Melcher. Any questions? Senator Pansing Brooks. [LB178]

SENATOR PANSING BROOKS: Thank you for your courage in coming forward and for telling such a strong story. And I'm sorry what happened. [LB178]

LAURA MELCHER: Thank you. [LB178]

SENATOR EBKE: Any other questions? Thank you for being here today. [LB178]

LAURA MELCHER: Thank you. [LB178]

SENATOR EBKE: Next proponent. [LB178]

LAUREN WARD: Hello, Chairperson Ebke and members of the Judiciary Committee. My name is Lauren Ward, L-a-u-r-e-n W-a-r-d, and I serve as the associate director of the Violence Intervention and Prevention, or VIP, Center at Creighton University in Omaha. I'm here to testify in support of LB178. I've been working as a sexual assault advocate and preventionist for nearly 15 years and I have the deep honor in my role at the VIP Center and on Creighton's campus to serve as a confidential advocate to those impacted first- or secondhand by sexual violence. Last year alone I served 146 survivors of power-based personal violence and, not surprisingly, the most common type of victimization was sexual assault--56 survivors in just one year. So far this year service utilization in the VIP Center is up over 40 percent as we continue to grow services, awareness, and reach. We are one university on one campus in one city and this is just a small minority of survivors that actually come forward and ask for help. One in four women in college are sexually assaulted--one in four. Of the sexual assault survivors I have worked with, almost every single one of them knew their perpetrators but would not meet the relationship requirement for a protection order as it stands. Since reporting to the university and/or law enforcement is such a personal choice that many survivors indeed do not choose, an option that could seem

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

Judiciary Committee  
February 23, 2017

---

within closer reach to many would be a protection order preventing future contact from the perpetrator. Most universities feel like a small, close-knit community. It's a one-stop home for academics, socializing, living, and involvement. That home is no longer safe when a student's rapist can sit next to them in the dining hall three times a day, continue to live in their same residence hall and perhaps even on their same floor, take the same classes, be in the same clubs. Having the opportunity to obtain a sexual assault protection order would mean true safety for a sexual assault victim. It would mean having tangible options following a rape. It would mean that the laws in the state they choose to pursue their higher education and cared enough about victims of sexual assault to create a law and join the majority of other states that do the same. The people that I work with on a daily basis need this protection. The law needs to start affording victims of sexual assault protections from the onset even if a survivor reports these protections that are even potentially built into those processes could not be implemented as quickly as a protection order could be if this bill was passed. The creation of this order would mean immediate safety put into place for Nebraskans that have already experienced a violent crime and might be spared future abuses. Not passing this bill tells victims of sexual assault that without a prior relationship or ongoing harassment that they have not yet been through enough to garner the court's attention and protection and that needs to change. On behalf of the VIP Center and Creighton University and the so many victims of sexual assault we serve each and every year, I ask you to please advance LB178 and I thank you so much for this opportunity and welcome your questions. [LB178]

SENATOR EBKE: Thank you, Ms. Ward. Any questions? Thank you for being here. [LB178]

MADALYN McKEONE: Hello, Chairperson Ebke and members of the Judiciary Committee. My name is Madalyn McKeone, M-a-d-a-l-y-n M-c-K-e-o-n-e. I am currently a freshman at Creighton University. I'm here to speak to you today on behalf of myself and all past, current, and future sexual assault, harassment, and violence victims. I'm here to testify in my regards to support of LB178 and significance that it holds. On November 13, 2016, at 3:00 a.m., I was sexually assaulted by a man that I didn't know. I had been out with my brother and friends that night and got separated from my group. I was simply in the wrong place at the wrong time. I don't remember meeting this man or how I got into his car, but after police investigations we are sure that some type of date rape drug was used. I had evidence that I was unconscious during the assault, sperm was found in my SANE kit results, and I was able to identify my offender. They matched the bruises that ran down my legs to the belt buckle I had worn that night and I had proof of phone calls and texts from my offender that lasted for days after the assault. This man did not even deny what he had done to me and when he saw the injuries he had caused to my body he laughed. And for two months I worked with police and an on-campus advocate to fight for my case, to fight for my dignity, and to fight for my body. You never think that something like this will happen to you. I never would have imagined that I'd have to look my parents and my siblings in the eyes and tell them I have been raped. After two months of fighting against this

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

Judiciary Committee  
February 23, 2017

---

man and being promised he would be arrested, I ended up with nothing--no court case and no protection order. I was told my case would be used as evidence for the next girl, for the next girl to be drugged and raped, to be undressed, hurt, violated without the ability to fight back. I walk on my campus and when I see someone that looks like him my heart begins to race and I have to walk in a totally different direction. So I didn't have a relationship with this man before he assaulted me. What difference does that make? He undressed me, assaulted me, bruised my body, and you're going to tell me I cannot be protected by the laws of Nebraska because I didn't know him before? I have feared that a man who knows my last name and knows where I go to school could show up and find me and hurt me all over again, a man I almost took to court for a case that could have ruined his life. LB178 needs to be passed. By passing this you will give victims the confidence to stand up for themselves against perpetrators and to voice the mental, emotional, and physical pain that they're going through. Women and men who are assaulted are afraid to speak up because the laws and government system often come up short, just like in my case. They fear that after reliving this horrible moment over and over again they're going to be looked at and told that nothing more can be done, after admitting to themselves and to others that this really did happen to them, after the interviews, the talks with police, the questions, the nightmares at night, all to be told they cannot be helped. It is horrifying to think that because I didn't have a relationship with this man before or that he didn't call me for months on end that I cannot be granted a protection order more easily. And after...the other victims that went through this also struggled to be granted protection under law. No one should be afraid that they're ever going to go through this and I'm sad that I have to sit here before you and ask for something that should already be in place. Thank you. [LB178]

SENATOR EBKE: Thank you for coming forward with your story. Any questions? Thank you. [LB178]

ANNE BOATRRIGHT: Good afternoon. My name is Anne Boatright and I'm currently a registered nurse at Methodist Health System in Omaha. My name: Anne, A-n-n-e, Boatright, B-o-a-t-r-i-g-h-t. I just wanted to formally go on to record. As a forensic nurse last year, we saw 400 patients of violent crimes at Methodist in Omaha, and we saw 233 of them being sexual assault victims and wanted all of you to know that we are in support of this bill. Any questions? [LB178]

SENATOR EBKE: Thank you very much. Any questions for Ms. Boatright? Thank you. [LB178]

ANNE BOATRRIGHT: Thank you. [LB178]

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

Judiciary Committee  
February 23, 2017

---

COREY O'BRIEN: Good afternoon, Chairman Ebke, members of the Judiciary Committee. My name is Corey O'Brien, C-o-r-e-y O-'-B-r-i-e-n, and I represent the Nebraska Attorney General's Office. We, too, wanted to go on record in support of LB178. We thank Senator Bolz for bringing LB178. I think as you've heard from the testimony this afternoon, there is a gap that exists in our law that doesn't adequately protect the victims and survivors of sexual assault. I encourage the members of the committee to seriously consider LB178 as wise legislation to achieve that added protection. As I estimated, there were when I looked as of 2015, 30 states and the District of Columbia that have passed almost identical legislation that does provide that protection. One note that I would ask if the bill does advance to consider is a small change is on page 12 of the bill. We've separated out domestic protection orders and harassment protection orders in lines 6-13. We would just ask that, if possible, when we're talking about domestic violence protection orders that the language mirror the same as the harassment protection orders, in particular where it says, "or that meets or exceeds the criteria set forth in section 28-311.10 regarding protection orders issued by a court in any other state or a territory," and imply that just the same language at the end of the domestic violence protection orders to stay consistent there, so there is no confusion on whether or not those protection orders are the same as currently exists under Nebraska law and are interpreted as such. With that, I have nothing further to add but again, I want to thank members of the committee and Senator Bolz for bringing this legislation and for your consideration of it. I would entertain any questions you have. [LB178]

SENATOR EBKE: Thank you, Mr. O'Brien. Any questions? Okay. Thanks. Next proponent. Are there any more? Okay, how about opponents? Opponents to LB178? Anybody speaking in the neutral capacity? [LB178]

SPIKE EICKHOLT: Good afternoon, Madam Chair, members of the committee. Spike Eickholt, first name S-p-i-k-e, last name E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association in a neutral capacity. I did visit with Senator Bolz and her office earlier this week about our small...what may be considered a small concern. The only issue or concern we have is the proposal that this bill has to make this sexual assault protection order valid for two years. As Senator Bolz indicated and some of the other testifiers have said, there already are two types of protection orders in Nebraska. There's the harassment protection order. There's the domestic violence protection order. And both of those, if issued by a court, are in effect for a year. Her bill, this bill, LB178 proposes to do two years. The bill does provide the protection order can be renewed. So we submit that the two years is not necessary in this context. When I talked to Senator Bolz's office, I think that the concern or the hope to have it for two years was to accommodate the instances in which there is a sexual assault, a person is charged, but the length of prosecuting the criminal case is related to the issuance of the protection order goes beyond a year. The response we would have is that many times that there is a criminal case, there is a bond that is set, and if the offender can make that bond there's usually a no contact condition on the bond so there is an additional protection, if you will, for the victim to prohibit



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

Judiciary Committee  
February 23, 2017

---

contact between the perpetrator and the victim. And again, I would just suggest that we note that this bill does allow that a protection order can be renewed at the end of...it's proposed two years, but we suggest that the year is satisfactory. The concern that we have, and it's not something that we face directly because these are civil protection orders, but the enforcement mechanism for a protection order is criminal prosecution. And the concern that we have is that if this does make it for two years, the next year or sometime after that, there's going to be impetus to make the other protection orders also be for two years. And a concern that we have is not so much in this setting necessarily but in other settings that that would expand criminal exposure to many of our clients. And that's the only comment we have on the bill. [LB178]

SENATOR EBKE: Any questions for Mr. Eickholt? Thank you for being here today. Anybody else in the neutral capacity? Senator Bolz? Senator Bolz waives. We have letters someplace. (Exhibits 1-9) We have letters in support from David Partsch of the Nebraska County Attorneys Association; Mary Sullivan of the National Association of Social Workers; Ashley Robertson, Project Response; Todd Wiltgen of the Lancaster County Board of Commissioners; Jo Springer of the Spouse Abuse Sexual Assault Crisis Center; Toni Jensen from the Nebraska Coalition for Victims of Crime; Jeffrey Bliemeister from the Lincoln Police Department; Ivy Svoboda of the Nebraska Alliance of Child Advocacy Centers; none in opposition and one in the neutral capacity from Nathan Leach. That closes the hearing on LB178 and we will move to LB289. And as Senator Pansing Brooks is moving this way, I think that there is a group of folks who want to kind of testify in order. So if you know that you're in that...do they know that they're on the list in that order? We have Rachel Pointer, Megan Mallet, Anna Brewer. Kind of move that way so that we're in position. [LB178]

SENATOR PANSING BROOKS: (Exhibits 9-11) Okay, thank you. Thank you, Chair Ebke and fellow members of the Judiciary Committee. For the record, I am Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, representing District 28 right here in the heart of Lincoln. I am here to introduce LB289 today so we can better protect victims of human trafficking and bring justice to those who engage in this abhorrent practice. The UN defines human trafficking as the recruitment, transportation, harboring, or receipt of persons by improper means such as force, abduction, fraud, or coercion for an improper purpose, including forced labor or sexual exploitation. The human trafficking of women, men, and children for sexual or labor purposes is the epitome of our modern-day slavery. In the 1800s, Lucretia Mott, an antislavery and women's issues advocate, said, "I have no idea of submitting tamely to injustice inflicted either on me or on the slave. I will oppose it with all the moral fibers (sic: powers) with which I am endowed. I am no advocate of passivity." Like Lucretia, I, too, am no advocate of passivity. That is why I come before you today to ensure that we send a strong message to those who engage in trafficking: Nebraska will no longer tolerate your inhuman violations of our people and your punishment will reflect the heinousness of your actions. We must do everything we can to stop this continued sale and abuse of human flesh. While it seems impossible to most Nebraska

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

Judiciary Committee  
February 23, 2017

---

citizens to believe that human trafficking is present in Nebraska, facts show clearly to the contrary. Law enforcement agencies agree that the existence of Interstate 80, coupled with Internet sex advertising and the proximity of the casinos across the river, makes Nebraska especially vulnerable to human trafficking. There is plenty of evidence that trafficking is a common occurrence at events like the College World Series, Nebraska football weekends, the State Fair, and even the annual Berkshire Hathaway shareholders' meeting. Because human trafficking takes advantage of a reusable commodity--human flesh--it is very profitable criminal activity, second only to drug trafficking. When I came to the Nebraska Legislature, human trafficking quickly became a top priority for me. I had been aware of the issue of trafficking due to the work of our daughter Avary who led a human trafficking group at Lincoln Southeast High School for four years that was mainly focused on international trafficking. After being sworn in, I met with Attorney General Peterson who asked me to sign onto the human trafficking bill being carried by now-Speaker Scheer. After that, I attended national conferences which were focused on stopping trafficking within states rather than federally. At those conferences Attorney General Peterson and I agreed that what we needed to do was to initiate a sea change of understanding about the issue of human trafficking. We needed to start helping people understand that those being arrested for prostitution in human trafficking cases were actually victims, and that we needed to stop the supply and the demand. Last year we made significant progress towards protecting victims of trafficking through the passage of LB843, my bill to grant legal immunity from prostitution charges to any person proven by law enforcement to be a victim of labor or sex trafficking. This bill, which the Legislature...that bill, which the Legislature passed without opposition, was an important step in establishing and clarifying that human trafficking victims are victims and not criminals. Law enforcement had had trouble getting victims to report on their traffickers because they had been treated like criminals and had only had their traffickers to depend on to release them from jail. With only minor penalties being imposed on the traffickers, the victims had little incentive to report on the traffickers to law enforcement. Last year in Judiciary, some of you may remember that a young woman testified who had been arrested 156 times and her trafficker had never been arrested nor, to her knowledge, had any of her purchasers or solicitors. That brings us to LB289, this year's bill which deals with our second goal: stopping the supply and demand. Under current law most individuals convicted of trafficking of a victim may receive light sentences, including probation. Under current law, something so minimal as probationary-level findings can be imposed upon those guilty of trafficking a minor and trafficking an adult with the use of threat or force. Can you imagine that, someone trafficking a minor being penalized with probation? When you consider the horrors of this crime, probation is nothing more than a slap on the wrist. LB289 imposes tougher sentences on both traffickers and solicitors, i.e., the purchasers of trafficking victims, by increasing the felony classifications for an array of offenses. I have handed out a sheet put together by the Women's Fund of Omaha and their partners that compares the current and proposed regulations and the possible penalties now and what would happen under LB289. I will go through a few of these. LB289 increases felony classifications for sex trafficking of a minor from a Class IIA to a Class IC; trafficking of a

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

Judiciary Committee  
February 23, 2017

---

minor with use of threat or force from a Class II to a Class IB; trafficking of an adult with use of threat of force from a Class IIA to a Class ID; and trafficking of an adult from a Class III to a Class II. In addition, pandering goes from Class III to a Class II in order to remain consistent with other charges and reduce the ability to plead down. Solicitation of a trafficked adult goes from no regulation to a Class II. The change in classifications would result in convicted traffickers being sentenced to at least one year in prison and for the most egregious offenses up to life in prison. We have thought long and hard about the seriousness of these penalties. We have not made these decisions lightly or in a vacuum. I have clearly spent my time in the Legislature working hard to avoid increasing penalties in most instances; however, we are not talking about nonviolent drug crimes which are currently clogging our prisons. We are talking about one of the most heinous crimes short of murder to be imposed on victims. In addition, to continue our work to recognize victims, LB289 also establishes that victims of trafficking cannot be prosecuted as participants in others' trafficking ventures. This is because many victims are often forced into recruiting others into the trade. We want to make sure those additional victims are recognized, defined in statute as victims, and given proper and full protections. Additionally, the bill aligns Nebraska with federal law which defines the crime of solicitation of a minor as sex trafficking. These increased penalties are important because every month 900 individuals are sold for sex, often multiple times, in Nebraska according to the recent report from the Women's Fund of Omaha titled "Commercial Sex Market in Nebraska." Meghan Malik from the Nebraska...from the Women's Fund of Omaha and Crysta Price with Creighton Human Trafficking Initiative will be highlighting this report and their research as part of this testimony today. As you will also hear today, human trafficking is a statewide problem with victims coming from all races. One thing that struck me was the high number of African-American victims. While African-Americans represent 5 percent of Nebraska population, they make up over half of all individuals sold for sex in the state. Also, one out of every ten individuals sold for sex in the state are too young to buy alcohol, yet buyers are purchasing them for sex. Human trafficking is a violent crime. You will hear sickening and heartrending stories that will follow me. Sexual abuse at a young age sets these young women and men up for prostitution and trafficking by desensitizing them from the experience. They come to believe that this is their full value and this is what is to be expected of them. Statistics tell us that the average age when a child is first commercially sexually exploited, or any person, is 13. An excellent survey and report that was also funded by the Women's Fund of Omaha has been completed by two Nebraska professors, Sriyani Tidball and Dr. Shireen Rajaram, called "Nebraska Sex Trafficking Survivors Speak--A Qualitative Research Study," which I have passed out to you as well. It was released in April. The Omaha World-Herald recently ran an editorial backing LB289 saying, "The coercion of young adults and children into prostitution is an especially abhorrent crime." I have submitted a copy of this editorial to the committee as well. We have a lot of people here to testify today ranging from academic experts to survivors of trafficking to law enforcement officials who have worked directly in this area to those who have worked with trafficking survivors and members of the faith-based community. They will all shed light on a torrid story on what has...what they have

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

Judiciary Committee  
February 23, 2017

---

experienced, what they know, and what they have seen. Glen Parks from the Attorney General's Office will also be here to testify. I want to thank each of them from the bottom of my heart for showing up today. I especially want to take a moment and thank Attorney General Peterson for his determination and vision in helping Nebraska make these important changes to our laws. LB289 has the potential to save countless people from the tragedy and horrors of human trafficking. In closing, I would ask that you please listen and advance LB289. Thank you. [LB289]

SENATOR EBKE: Thank you, Senator Pansing Brooks. Do we have any questions? None yet, okay. First up. [LB289]

SENATOR PANSING BROOKS: And I'm going to move back up here but I won't ask questions or comment on anything. [LB289]

SENATOR EBKE: Okay, that's fine. [LB289]

RACHEL POINTER: (Exhibit 12) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Rachel Pointer, R-a-c-h-e-l P-o-i-n-t-e-r. I am a case manager at a residential program for boys age 13-18 in Omaha, cofounder and movement liaison for Free the People Movement, and a survivor of sex trafficking. It is my pleasure to speak to you today in support of LB289. Having spent over 17 years working with children and families involved with the juvenile justice system and with CPS, I have witnessed the devastating effects that abuse, violence, and exploitation can have on individuals. In my professional experience, I have interfaced with many individuals who were trafficked and exploited, and have walked alongside the families and individuals in their journeys towards healing. And as much as I believe their stories need to be known, that they deserve to be heard, their stories are not mine to tell. So instead, I will tell you a story that is mine. When I was six years old, the boyfriend of my neighbor sold me to another person to use for sex in the house next-door to where I lived with my family in Omaha. I was sold to others, by others, and in other places across the city for ten years. Over time, it became harder and harder to keep my emotions in check, to not explode with anger and pain, and to not let anyone see the shell of a human being I had become because of the things that were done to me. For years, I didn't know what was really happening. I had no words to describe rape, beating, threats, violence, drugs, or anything else that was used to keep me under control and profitable. I intentionally tried to end my life, on at least three very distinct occasions, because I didn't want to live anymore. I cut and burned myself for years; because I had experienced so much trauma and was so numb, I was desperate to feel anything at all. I used drugs and alcohol, work, and staying extremely busy to keep me from thinking, because I was terrified of being trapped inside my own head with my memories. I was able to get away when I was 16 but I spent many years trying to get my life back and I have come a very long way in this

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

Judiciary Committee  
February 23, 2017

---

journey towards healing of my own. No one who purchased me, and no one who sold me, faced charges of any kind for what they did to me. If they had, they would have spent little to no time behind bars. An individual who pays money for the opportunity to rape or abuse a child needs to be held accountable. The individual who tortures, forces, threatens, abuses, drugs, and otherwise coerces a child for the purpose of making a profit off of their rape needs to be held accountable. We owe it to the little child who is being exploited right now in our great state of Nebraska to raise the bar. The child whose perpetrator will be caught and charged, we need them to know they deserve safety. We need perpetrators, buyers, and sellers to understand that we will no longer allow them to live without meaningful consequences for their actions. LB289 increases legal penalties for traffickers and solicitors and holds them accountable. And, in holding the perpetrators accountable, we demonstrate that we believe the victims of these terrible crimes deserve justice. Members of the Judiciary Committee, I respectfully ask you to approve LB289. Thank you for your time and consideration. I would be happy to take questions if you have them. [LB289]

SENATOR EBKE: Thank you, Ms. Pointer, for being here today. Any questions? Thank you. [LB289]

RACHEL POINTER: Thank you. [LB289]

SENATOR EBKE: And just a reminder, we're trying, we're aiming for three minutes, so if you're in the middle and the light goes on, somebody will probably ask you a question and let you continue so. [LB289]

MEGHAN MALIK: (Exhibits 13 and 14) Good afternoon, Senator Ebke and members of the Judiciary Committee. My name is Meghan Malik, M-e-g-h-a-n M-a-l-i-k, and I am the trafficking project manager at the Women's Fund of Omaha. In addition to testifying in support of LB289, I am also submitting a letter of support from Shared Hope International, national leaders in this fight. The Women's Fund of Omaha is a nonprofit organization focused on improving the lives of women and girls. I have spent the last two years partnering with service providers, law enforcement agencies, and researchers to fight sex trafficking in our state. In October of 2015, we partnered with the Attorney General's Office to formally launch the Nebraska Human Trafficking Task Force. LB289 is critical to supporting the work of the task force. LB289 seeks to amend the definition of child sex trafficking to clarify that those who buy sex from children are trafficking offenders. Currently the definition of sex trafficking of a minor requires either the involvement or identification of a controlling third party. Expanding the definition of child sex trafficking to incriminate anyone who solicits a child for the purpose of engaging in commercial sex with that child acknowledges the equal role buyers play in creating a marketplace for the buying and selling of sex with kids. Additionally, LB289 seeks to prohibit a

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

Judiciary Committee  
February 23, 2017

---

trafficking offender from using mistake of age or consent of victim as their defense. This prioritizes the protection of children over the protection of adult offenders. The proposed changes solidify Nebraska's commitment to shielding children from harm and holding all offenders accountable. Additionally, LB289 takes the critical step of eliminating third-party control requirement that currently exists in the sex trafficking offense definition section. Presently under 28-830, commercial sexual activity is a form of services that requires an ongoing relationship between a controlling third-party victim. This limits who is a sex trafficking victim for purposes of receiving the protection, services, and access to justice. Additionally, due to fear, retaliation, or trauma bonding, a child may not be able to identify his or her trafficker and not all child sex trafficking victims have a trafficker. Often they are trafficked in order to meet their basic survival needs. Critically important also, LB289 adds a penalty for knowingly or recklessly soliciting an adult trafficking victim under 28-831. Under current state law solicitation is a minimal fine. An adult trafficking victim should be protected from their trafficker. Finally, Section 28-831(4) provides imperative protections for trafficking victims from prosecution who are often forced to recruit other victims and run the operation for their trafficker. Trauma bonding, fear, and coercion create a perfect scenario for a trafficker to entice a trafficking victim into their venture. We must ensure protections for these victims. We respectfully request the Judiciary Committee to approve LB289 to support this important work in fighting trafficking in our state. Thank you. [LB289]

SENATOR EBKE: Great. Thank you, Ms. Malik. Any questions? Thank you. [LB289]

MEGHAN MALIK: Thanks. [LB289]

ANNA BREWER: (Exhibit 15) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Anna Brewer, A-n-n-a B-r-e-w-e-r. I am a former FBI special agent. I was employed by the FBI in 1990 and from 1992 until 2015. I spent 20 years as an FBI special agent. Throughout my career, I primarily investigated crimes against children and violent crimes. I'm here today to appeal to you to enact legislation to strengthen the laws to hold those who exploit our most vulnerable more accountable. Throughout my career, I have participated in hundreds of arrests involving human trafficking. At least one quarter of those arrests were buyers of sex. I will tell you that, in my training and experience, the preponderance of those who attempted to purchase another human being to engage in a commercial sex act were men. I know, through my training and experience, there is a premium on youth. Buyers reply to solicitations on-line that advertise youth and use the words such as "new," "fresh," and "just turned 18." A buyer is no different, in my experience, than a trafficker. A buyer merely uses the trafficker as an intermediary to purchase a person, adult or child, yet the buyer does not necessarily need to rely on the trafficker to engage in sex with a person, adult or child. I believe it is out of sheer convenience that the buyer uses the services of a trafficker. A buyer can use a trafficker, or a buyer can go on-line him- or herself and recruit a person from a social media Web site, a chat

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

Judiciary Committee  
February 23, 2017

---

room, or a Web site, eliminating the need for the trafficker. The buyer is integral to the existence of the trafficker: no buyers, no trafficking. The buyers often want young, the younger the better. This is often evidenced in many ways. As an example, I have experienced cases such as the USA v. Merrideth Crane-Horton when the buyer texted the trafficker, Merrideth Crane Horton, over 600 times in Omaha, Nebraska, seeking younger and younger. Another example is that of a local law enforcement colleague who placed an ad in late 2016 in Nebraska advertising an 18-year-old. This colleague received over 200 responses to the ad within 48 hours. The colleague could only respond to eight of these ads. The colleague told all eight of these people that she was only 15. Five of the eight replied that age was not a problem. While working as an FBI special agent in Omaha, I often worked with the Council Bluffs, Iowa, Police Department and other Iowa law enforcement officials. I did so with intent. It was intended because the laws were stronger in Iowa, the prosecutors were aggressive, and those who exploited other human beings were held much more accountable. Earlier this week, I contacted a Council Bluffs detective who told me that he thought that they have worked themselves out of a job because now when they engage in undercover operations and the buyer or the person being trafficked becomes aware that the date will happen in Council Bluffs, Iowa, they...the buyer or the trafficked person declines to meet, stating typically, "there are too many cops over there." Clearly, enforcement, tough legislation, and enforcement have had an impact in Iowa. It is critical that Nebraska takes the same steps as well. Based on the above, I respectfully request that the Judiciary Committee approve LB289. Thank you for your time and consideration. I would be happy to answer any questions. [LB289]

SENATOR EBKE: Thank you, Ms. Brewer. Any questions? [LB289]

ANNA BREWER: Thank you. [LB289]

SENATOR EBKE: Thank you very much. [LB289]

CRYSTA PRICE: (Exhibits 16 and 17) My name is Crysta Price, C-r-y-s-t-a P-r-i-c-e. I'm a data scientist and human trafficking researcher at Creighton University. I'll give a broad overview of our research on sex trafficking, and this analysis is based on almost a year's worth of data scraped from Backpage.com, which is known to advertise trafficking victims. Nebraska has five Backpage sites: Omaha, Lincoln, Grand Island, North Platte, and Scottsbluff. Between these five sites, Nebraska sees about 900 individuals sold for sex, often multiple times, each month. Since many Backpage ads also specify other locations the individual is available in, this causes the commercial sex industry to extend well outside the five cities with Backpage sites, covering nearly the entire state including rural and urban areas. Essentially, Nebraska has a very active commercial sex market with individuals being sold across the state. But what do we know about this market and those involved in it? Nearly half cross state lines in order to be sold for sex. Individuals from nearly every state in the country have been sold for sex here in Nebraska. The

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

Judiciary Committee  
February 23, 2017

---

majority of them appear to work in groups; some are even advertised in multiple girl specials as a package deal. These networks of individuals being sold for sex strongly suggests that there's a lot of third-party actors that are involved. Often individuals sold for sex are recruited from vulnerable populations, and our data show that this is definitely the case in Nebraska's commercial sex market. These individuals are working at low hourly rates and they're sold frequently. This indicates that those sold for sex largely comprise the lower end of the commercial sex market where survival sex is often the only means of meeting basic needs. Fifty percent of those sold for sex in Nebraska are African-American, even though they represent only 13 percent of the U.S. population and 5 percent of Nebraska's. Other minority groups are less likely to be advertised on-line, relying more on word-of-mouth advertising. Nonetheless, about seven individuals who work in Nebraska each month identify as Native American in their ads. Not only is the market skewed towards minorities, but it's also skewed towards the young. About one in five are advertised in a way that indicate that they're very young, using phrases such as "fresh meat" or "just hit 18." So you can really start to see how this sex trafficking exists within the larger commercial sex industry. About 70 percent of those sold in Nebraska have some indicator of potential trafficking, and about 15 percent are high-probability trafficking victims. This conservative estimate translates to about 135 trafficked individuals each month in Nebraska. One thing that strongly sticks out in our research is how buyers' preferences create the trafficking market. For example, since buyers want fresh faces, we see that individuals sold for sex are regularly traveling, especially in smaller markets where the industry acts like a revolving door. Since buyers also seem to really value youth, we see that the younger the individual being sold, the higher the hourly rate they're sold at. This creates incentives for traffickers to recruit younger and younger victims. Even the johns recognize that they drive the market. On one johns' message board, there is a thread where johns post the price of sex around the world. One john explained the price is so high in the U.S. because it's a seller's market here. In other words, the demand is outstripping the supply. Thank you. [LB289]

SENATOR EBKE: Senator Hansen. [LB289]

SENATOR HANSEN: Thank you, Chair Ebke. Would you please finish your statement for me. [LB289]

CRYSTA PRICE: Oh. Yeah. I've got a few paragraphs though. Is that okay? [LB289]

SENATOR HANSEN: Absolutely. [LB289]

CRYSTA PRICE: All right. Okay, so I'll finish the quote. So, "It's a sellers market here in the United States," that was the john's quote. So that means that the demand is outstripping the supply. Another john wrote that, "the prices (in other countries) is (sic: are) so low because



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

Judiciary Committee  
February 23, 2017

---

human trafficking is a huge problem in some parts of the world...it's even a problem even here. As long as there is demand for it and people don't question the low(er) prices or the health and well-being of these women it will continue to be a problem." That's all a quote from a john. Since johns drive the market, what do we really know about them? While there are many different types of johns, demographically speaking, sex buyers tend to be educated white males over the age of 30 with enough disposable income to sustain this expensive hobby. This best explains why Omaha sex ads are most often targeted to neighborhoods in west Omaha. Some johns can be violent towards those sold for sex. This has been well documented throughout the literature on the commercial sex industry, but we've also found evidence of this in our own research. For example, one individual who has been sold for sex across the state posted an ad on [Backpage](#) about two months ago. In this ad, she warned of a trucker in Columbus whom she described as being "cruel," saying, "wow he messed me up...if anybody sees me broke down on highway 80 please stop to help me." Currently, sex buyers in Nebraska feel very little risk of getting caught. For example, when discussing a major operation last year in the state, one john stated that there was no need to take a break from "the hobby" because it was a "low hanging fruit sting." Another john said, "So what, 13 of them will pay a fine of \$200, a misdemeanor charge." I'll conclude with an anecdote from our data. On June 22 of this year, a Milwaukee-based individual was advertised for sex in Omaha. The ad read, "Little. Flexible. University babe. Pleasing you is what I aim to do!" Two days later, four other individuals in the same stable began posting across the state. One ad that was placed in Grand Island read, "Sammy is an 18 year old visiting college freshman...open 24/7... pretty face, small waist. Foreign language spoken." The next day, another member of this stable was sent to Omaha with an ad that said, "Let's play just turned 18!" A day later, yet another member of this stable was advertised as "a gorgeous young college student." One by one, seven different individuals from the same stable were brought to Nebraska to be sold for sex. The ads got more blatant, and the girls got younger. The trafficker appeared to be testing the demand in Nebraska, liked what he saw, and thought it worth his time to send more and more girls from his stable to our state. Thank you. [LB289]

SENATOR HANSEN: Thank you. [LB289]

SENATOR EBKE: Any questions for Ms. Price? Thank you for being here today. [LB289]

CRYSTA PRICE: Thanks. [LB289]

DAVID LEMOINE: Thank you. My name is David Lemoine, L-e-m-o-i-n-e. I'm a retired FBI agent and I investigated sex trafficking crimes in Billings, Montana. In 1999, I was supposed to be heading a gang task force with two Billings police officers and a sheriff's deputy. There were no gangs there but I found out that there was a real problem with prostitution, with pimps from Chicago, Detroit, and Minneapolis coming through Billings and picking up girls from Billings

and from the reservations. I guess at least half of them were Native American girls from the reservations. They would take them on what they called the circuit. They would leave Billings and go to Spokane, Seattle, Tucson, Los Angeles, all over the country. And they control these girls with violence. They would put a quota on them: This is how much money you're going to make tonight or you don't come in. One girl consistently wasn't making her quota so the pimp in 1988 took her, stripped her, tied her on a bed, and raped her with a hot curling iron to punish her for not making her quota. That's the kind of violence that they use to maintain control of these girls. And if I leave you with one thing today it's that these girls are victims in the truest sense of the word. Out of maybe 70 girls that I interviewed, there were two--two--that had not been victims of sex abuse as children and it was documented. There were cases against people for molesting these little girls and this is what becomes of them. They're desensitized to sex and they run away from home when they're 14 to get away from it and they run into the arms of these pimps who are very skillful at convincing them that they love them and they're going to be just like Julia Roberts in Pretty Woman and live happily ever after and nothing could be further from the truth. We identified over 100 girls that had been taken from Billings, Montana, in the previous five years. The reason is because the penalty for pimping in Montana in state court was punishable by only up to six months in jail. No one had been prosecuted for pimping in Montana in over 25 years. I got with a state senator. We introduced legislation that raised the penalty dramatically: for simple promotion of prostitution, which is massage parlors and escort services, 10 years; for aggravated promotion of prostitution, which includes use of threats, intimidation or violence, up to 100 years; and if it's a juvenile, up to life in prison. It ended it immediately. Montana Avenue, where they all worked their girls, which was the trashiest part of Billings, is now the trendiest part and it's the only thing that's keeping downtown Billings alive. There are restaurants there in this old historical part of town, nice bars, shops, antique shops. So it has been a...you know, if you want to look at it just from a dollars and cents point, it's been a big, big help to downtown Billings. But there has not been one report of a girl leaving Billings, Montana, or Montana with a pimp since that law went into effect. [LB289]

SENATOR EBKE: Thank you. Senator Hansen. [LB289]

SENATOR HANSEN: Thank you, Chair Ebke. So are...thank you for coming down. Did you come down from Montana for this or do you (inaudible). [LB289]

DAVID LEMOINE: No, sir. I moved here. My daughter went to Creighton Law School and they live here so my wife and I moved to Nebraska City about two years ago. [LB289]

SENATOR HANSEN: Okay. [LB289]

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

Judiciary Committee  
February 23, 2017

---

DAVID LEMOINE: But I'm trying to get this law. I'm working with an organization called Children of the Night which helps juvenile prostitutes get off the streets. And according to them, there are about 600,000 juvenile prostitutes in America at any one time. It's an absolute...it's a massive problem and the only way to work it is with strong state statutes because with federal statutes you've got to wait till the girl crosses state lines and then what are you going to do? You don't know where she is. She's got to go through a year of hell before you can maybe get to her and get her to testify. And if she does testify, all the evidence that you need to corroborate her testimony is in another state. How do you corroborate it? Arrest records. Okay, good. Where were you arrested? Los Angeles. Okay, well, we don't find any arrest on...well, I didn't use my name, used another name. Then you got to do a fingerprint check to find out, to verify it. Then you got to tie the pimp to it. What motel did you stay in? Well, if they can remember that, you get the motel receipt and the pimp's name that's contemporaneous with her arrest, but it's infinitely more difficult to work it federally. You got a strong state statute, these pimps talk; they know where they're hitting them. They show up here, any uniform police officer can make a case on them and they will stay away. They avoid areas where there's pressure. They'll go to the other states. [LB289]

SENATOR HANSEN: Thank you. And when did Montana adopt that law? [LB289]

DAVID LEMOINE: 2001. [LB289]

SENATOR HANSEN: Okay, so they've had 16 years of experience? [LB289]

DAVID LEMOINE: Yes, and it continues to be, you know, a big influence on it and it's just...it's nonexistent. And I had letters from two Billings police officers--one is a captain in the Billings Police Department--but they were too long to read, attesting to the change that it has made in Billings. [LB289]

SENATOR HANSEN: Sure. [LB289]

DAVID LEMOINE: I mean they were working girls 14, 15 years old. One girl was mentally handicapped. They didn't care. [LB289]

SENATOR HANSEN: Would you be able to submit those letters in writing to us and then we can bring them back to the hearing? [LB289]

DAVID LEMOINE: What's that now? [LB289]

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

Judiciary Committee  
February 23, 2017

---

SENATOR HANSEN: Would you be willing to make sure we get a copy of those letters?  
[LB289]

DAVID LEMOINE: Well, they were e-mails, yeah, I can get them printed up, yeah. [LB289]

SENATOR HANSEN: Perfect. [LB289]

DAVID LEMOINE: Sure can. [LB289]

SENATOR EBKE: Or just, yeah, send the e-mails to us is fine too. [LB289]

DAVID LEMOINE: Yeah. [LB289]

SENATOR EBKE: Yeah. Okay, great. [LB289]

SENATOR HANSEN: Thank you. [LB289]

SENATOR EBKE: Senator Halloran. [LB289]

DAVID LEMOINE: Okay, thank you. [LB289]

SENATOR HALLORAN: Well,... [LB289]

SENATOR EBKE: Senator Halloran has a question I think. [LB289]

SENATOR HALLORAN: Mostly thank you,... [LB289]

DAVID LEMOINE: Sorry. Go ahead. [LB289]

SENATOR HALLORAN: ...thank you for bringing your experience to Nebraska and welcome to Nebraska. [LB289]

DAVID LEMOINE: Well, you know, I feel very passionately about this and I...this is one time when I've seen a law that works. You make it hard enough, they're going to stay away. And anybody that thinks the system doesn't work, I went to Senator Brooks with this, within five

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

Judiciary Committee  
February 23, 2017

---

minutes we had this thing underway, we were getting it done, and I commend you for that and I thank you for that. [LB289]

SENATOR HALLORAN: Well, thank you, sir. [LB289]

DAVID LEMOINE: Thank you. [LB289]

SENATOR EBKE: Thank you. Next up. [LB289]

SHIREEN RAJARAM: (Exhibit 18) Chairwoman Ebke and members of the Judiciary Committee, good afternoon. My name is Dr. Shireen Rajaram, that's S-h-i-r-e-e-n R-a-j-a-r-a-m, and I am a faculty in the College of Public Health at the University of Nebraska Medical Center. And I am here representing myself as a health professional with expertise on this subject to testify in support of Senator Patty Pansing Brooks's bill, LB289. Human trafficking is a serious public health issue. And the focus of public health is on the health and well-being of not just the individual but on that of the entire population. And as we know, human trafficking clearly affects not just the health, safety, and well-being of the individual, but their families and the entire community. In April 2016, I completed a research study, the first of its kind in Nebraska, on survivors of sex trafficking in Nebraska with Professor Sriyani Tidball, a faculty at UNL. The study, entitled "Nebraska Sex Trafficking Survivors Speak," was funded by the Women's Fund of Omaha. We conducted 22 one-on-one, in-depth interviews with women survivors of sex trafficking and asked them for their perspectives on the three Ps, also known as prevention, protection, and prosecution. And the three Ps paradigm is key in addressing human trafficking. On the topic of prosecution, the third of the three Ps, the report states, "As a society, we must address the demand side of sex trafficking by finding and prosecuting the buyers and sellers of trafficked persons." One woman mentioned that you could get more jail time for shoplifting than for forcing a person to have sex with another person. A few direct quotes from the women say it best. These are pseudonyms and not their real names. Shannon: And these pimps...need to be prosecuted, not just given probation or community service or get off time served...people that...sell drugs get more time than someone who is kidnapping and forcing girls to have sex for money...there needs to be stricter laws across the board. Jane said: They say, it's not murder, but it's a form of murder...Let them not (say), oh, I'm going to give you a year in jail, and six months' probation. No, you're going to get 10 to 20 years, when you are touching somebody's child, or your own child...they really need to be punished some way, to make them stop. And Yolanda said: There needs to be...harsher punishment for the men that are getting caught for doing any of these crimes, because when people start getting punished, other people aren't going to want to do it...So if nobody is getting punished, it looks like an open field for play for everybody. Becky: And I feel like the buyers are just as bad as the pimp because...they are the demand and pimps make more supply...and there is no fear, you know, a little \$99 ticket or whatever is not going to

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

Judiciary Committee  
February 23, 2017

---

scare these people...treat it like it's a real issue and not just a slap on the hand because they're the ones making it bad for us. Women felt that proper punishment of traffickers and buyers would decrease women's reluctance to come forward and report such crimes, and would also serve to reduce demand. I'll close with a comment I made to the Lincoln Journal Star, which was tweeted by the Nebraska Appleseed, where I said, "If you say Nebraska is the good life, you cannot have a good life when a segment of the population is being subjected to these injustices right in our backyard." Thank you. [LB289]

SENATOR EBKE: Thank you. Do we have any questions? Thank you for being here today. [LB289]

ERIN ALIANO: (Exhibit 19) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name Erin Aliano, E-r-i-n A-l-i-a-n-o. Thank you, Senator Pansing Brooks, for bringing forward this important legislation. I am testifying as the special projects coordinator for the Nebraska Alliance of Child Advocacy Centers and on behalf of the seven child advocacy centers across the state of Nebraska. Currently, I am working to enhance our response to commercially sexually exploited and trafficked children in Nebraska. The child advocacy centers see child sex trafficking, whether the child is 6, 10, or 17, as a malicious form of child abuse and, more importantly, child sexual abuse. We are working with the multidisciplinary teams in each county and the Nebraska Human Trafficking Task Force to enhance the unified response to the multiple forms of child abuse that are encompassed in the trafficking of children: exploiting children through pornography, soliciting sex from a child or a child's guardian, or the emotional, physical, and sexual abuse of those children. With every investigation and forensic interview we work with, we are learning more and more about this dark subculture in our society. It's critically important that we enact this legislation to apply the appropriate criminal sanctions of buyers and attempted buyers of sex acts with children. When a child is sold or traded for sex or something of value, such as rent, drugs, food, the case follows the path of sexual abuse similar to a child victim who was sexually assaulted by a family member or a trusted friend of the family. Cases of child sex trafficking are a different form of trauma which involve multiple forms of abuse--emotional, physical, and sexual abuse--over varying lengths of time. These criminal acts involve multiple buyers and offenders. These children are sexually assaulted or raped time after time by complete strangers seeking to have sex specifically with a child of their preferred age. Making the actions of the buyer a crime under serious and specific criminal statute will guarantee that the investigation and prosecution of these crimes will rise in priority status. It will prevent them from continuing to be viewed as a mere vice or immoral crime, rather than the rape and sexual abuse of children which child sex trafficking actually is. We cannot be a safe haven for perpetrators purchasing our children in Nebraska. Nebraska citizens, especially our most vulnerable children, are not for sale. The Nebraska Alliance and the seven child advocacy centers across the state of Nebraska respectfully request the Judiciary Committee's advancement of LB289. Thank you for your time and consideration and I'm happy to answer any questions. [LB289]

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

Judiciary Committee  
February 23, 2017

---

SENATOR EBKE: Thank you, Ms. Aliano. Any questions? Thank you for being here today. [LB289]

ERIN ALIANO: Thank you. [LB289]

ANNE BOATRRIGHT: (Exhibit 20) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. Again, my name is Anne Boatright, A-n-n-e B-o-a-t-r-i-g-h-t. I am a registered nurse, as I previously told you, and currently the coordinator for Methodist's forensic nursing program in Omaha, Nebraska. Thank you for the opportunity to speak with you regarding LB289. In my work as a forensic nurse, I've provided care to victims of sex trafficking. I have seen firsthand the impact that this horrific crime has on a victim's overall health. Patients experience severe health consequences as a result of being trafficked. Some of these include lifelong mental health issues, high rates of suicide, neurological issues such as insomnia and memory loss, and physical injuries from being repeatedly raped and beaten. Eighty-eight percent of victims in trafficking are seen by a healthcare provider during the time they are being trafficked. As mandatory reporters we have the ability to assist victims in reporting these crimes. But an additional issue that victims also face is feeling that they can trust that the system when they report to healthcare or law enforcement will help them. While the vast majority want help and want a way out of this life, they are faced with the potential consequences of reporting. They find themselves struggling with being believed or feeling that the system could fail them at any stage and that they could once again be victimized by an offender. When a victim is faced with the decision to report and the penalty for their trafficker is as minimal as probation, a victim is often put in more danger by reporting than not. This fear creates and limits victims' desire to report these egregious crimes and allows offenders to continue to victimize individuals and undermine the safety and security of our communities across the state. We have an opportunity to change the way we treat these victims of crime, to impact their lives and hold these offenders accountable. This is our mission here in Nebraska, to care for our people, the most vulnerable people, and take a stand to say this is not okay. I will never forget working with a patient faced with the decision to try and get out of her situation or not, her pimp calling her phone every single hour, her crying and looking at me and saying: I have to go back; if I don't go back, he will kill me; I have to go back. Those words echo in my head today as I sit before you here with hope that we can take decisive action to hold offenders accountable and change victims' lives for the better. I respectfully urge you please approve LB289 and help us fight this horrendous crime. Thank you very much, and I would be happy to answer any questions I can. [LB289]

SENATOR EBKE: Thank you, Ms. Boatright. Questions? Thank you. [LB289]

ANNE BOATRRIGHT: Thank you very much. [LB289]

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

Judiciary Committee  
February 23, 2017

---

TIM DUNNING: (Exhibit 21) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Tim Dunning, T-i-m D-u-n-n-i-n-g, and I am the Douglas County Sheriff. I am also a member of several other entities that are trying to address human trafficking in the state of Nebraska. I do not want to repeat any information that you have already received and I will give you my experience as an undercover police officer, a supervisor of undercover police officers working these types of cases. It is important for you to recognize that human trafficking is buying, selling, and enslaving human beings for monetary gain and that of one's sexual pleasure. From a law enforcement perspective, the difficulty in making a dent in this horrendous problem is that the current Nebraska statute does not include language "knew or should have known" that someone was a minor. Current law does not treat buyers of sex as a trafficker. Aren't they just as bad as those that sell human beings for sex? I know the jails are full and I know you have a huge responsibility to solve the overpopulation problems in the state of Nebraska and I sympathize with that. But the criminals we are trying to deal with in this legislation are no better than the sex offenders that we currently incarcerate to protect society and hopefully get some treatment along the way. The fact that a person can buy a human being for sex and merely get a \$100 fine is absolutely not acceptable. Pandering is very difficult to prove and this bill takes away some of that gray area for law enforcement and prosecutors. If we can't arrest the panderers and pimps, the victims will not come forward to be rescued or identify those that have enslaved them. They are not empowered, they are hopeless, and they are helpless. They deserve to have your help. Please pass LB289 and help us with this problem. Thank you to Senator Pansing Brooks for introducing this legislation, and I would be happy to answer any questions you might have. [LB289]

SENATOR EBKE: Thank you, Sheriff Dunning. Are there any questions? No. Thank you for being here today. [LB289]

TIM DUNNING: Thank you. [LB289]

SAKURA YODOGAWA-CAMPBELL: (Exhibit 22) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Sakura Yodogawa-Campbell, S-a-k-u-r-a Y-o-d-o-g-a-w-a, hyphen, C-a-m-p-b-e-l-l. I am a crime victim advocate with the Sarpy County Attorney Victim Witness Unit and I am a survivor of sex trafficking. It is easy for us to look at this as a victimless crime or that people choose to be there. We give labels like prostitute, pimp, or john when, in fact, it is trafficking. We do this to separate ourselves from others by saying this could never happen to me. But it did. I was 27 and recently promoted at work and relocated to Kansas from Omaha. I began dating someone and for two years I lived in constant fear. I was constantly monitored and tracked. He knew who I spoke with or hung out with. It got to the point where I quit hanging out with others because he would either show up, have me followed, or constantly call me. He broke into my personal e-mail and deleted my contacts. He would constantly accuse me of cheating on him and then beat me until I confessed to it. He broke my



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

Judiciary Committee  
February 23, 2017

---

cell phone and so we had to get a joint plan which gave him even more access to me and anyone I communicated with. He cut up my clothing and dictated what I wore and how I looked. I was certain law enforcement would not believe me. And he assured me, they would not. We started frequenting adult shops and strip clubs between Topeka, Kansas, and Independence, Missouri, and watching hours of porn. It changed from getting a lap dance to being forced to have sex in the back room of the adult shops while others watched. When that wasn't enough, it was sex with others while he watched. And when that wasn't enough, it was swinger's clubs. A friend came to visit me and I sat frozen while he raped her and then forced me to have sex. This is how I would get my money back to pay my rent and other bills. To refuse would have meant I was beat. And all the while he is doing this, he is telling me he loves me. And I believed him. I was beaten down so far, physically and emotionally, that I felt I deserved this and that, through it all, he did love and care about me. It is easy to categorize my experience as domestic violence. And for many years, I did. But he crossed the line from being my abuser to being my trafficker when he benefited from my victimization, when the only way I could pay my rent was to turn tricks. He took my body. He took my voice. He knew what he was doing. My only choice was about survival. Our current laws do not do enough to protect victims and hold offenders accountable. By maximizing the penalties for offenders, the perpetrators, we send a clear message to the victims that we see you and we hear you. What he did to me cannot be undone, what the others did to me cannot be undone. But you have a chance to change the world for someone else. This is a crime of coercion, violence, mental and physical abuse. It is the buying and selling of a human being. Thank you. [LB289]

SENATOR EBKE: Thank you for being here today. Any questions? [LB289]

SAKURA YODOGAWA-CAMPBELL: Thank you. [LB289]

SENATOR EBKE: Thank you. [LB289]

NATE GRASZ: Good afternoon, Chairperson Ebke and members of the committee. Thank you for the opportunity to appear before the Judiciary Committee today. My name is Nate Grasz, N-a-t-e G-r-a-s-z. I am the policy director for the Nebraska Family Alliance and I'm here to express our support for LB289. Nebraska Family Alliance has been working on combating human trafficking in our state for over ten years and we are proud to support this piece of legislation because, as we have heard today, Nebraska is not immune to the issue of human trafficking. It is in our cities, our communities. We've had victims from this area come to us for help and, in fact, the building our office is now located in, just a few blocks from this very room, was previously used by the Lincoln Police Department to conduct prostitution and trafficking-related sting operations. While we have seen tremendous strides in the efforts to combat human trafficking and raise awareness on this issue, we also recognize that currently the penalties do not fit the

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

Judiciary Committee  
February 23, 2017

---

crime. By passing LB289, the state can recognize the severity of these crimes by reasonably and appropriately increasing the penalties for human trafficking and ensure that our laws better reflect Nebraska's commitment to ending human trafficking in our state. We would like to especially thank Senator Pansing Brooks for bringing this bill and for her continued commitment to working on this important issue, as well as the Attorney General's Office and others for their tremendous work. Thank you for your time today and we encourage the committee to advance LB289. Thank you. [LB289]

SENATOR EBKE: Thank you, Mr. Grasz. Any questions? Thanks. [LB289]

NATE GRASZ: Thank you. [LB289]

STEPHANIE HUDDLE: (Exhibit 23) Good afternoon, Chairperson Ebke. Members of the Judiciary Committee, my name is Stephanie Huddle, S-t-e-p-h-a-n-i-e H-u-d-d-l-e. I'm the public policy coordinator for the Nebraska Coalition to End Sexual and Domestic Violence and I am here today to testify regarding our support of LB289. The Nebraska Coalition to End Sexual and Domestic Violence is a statewide nonprofit advocacy organization committed to the prevention and elimination of sexual and domestic violence. We provide training and program capacity building to Nebraska's network of domestic violence and sexual assault programs, supporting and building upon the services they provide. Our mission is to enhance safety and justice by changing the beliefs that perpetuate domestic violence and sexual assault. We believe LB289 is an effort to do just that, and will provide additional protections for victims and survivors of human trafficking. Trafficking has devastating and long-lasting effects. Trafficking victims often suffer from severe physical injuries, exhaustion, dehydration, and starvation. Victims who are subjected to sexual assault are highly vulnerable to sexually transmitted infections and HIV/AIDS. For women, the risk of pregnancy also runs high, with many victims being forced to terminate their pregnancy. You have also heard other testifiers discuss some of the psychological and emotional effects of trafficking, so I will not repeat those in the interest of time. Coercion and threats, intimidation, emotional abuse, and isolation are among the tactics used by traffickers to control and manipulate their victims. For advocates who work in the 20 domestic violence and sexual assault programs in Nebraska, these strategies are all too familiar, as they are the very tactics used by perpetrators of domestic violence. The similarities are so striking, human trafficking can be seen as domestic violence on steroids. As such, our network of programs has the knowledge to provide survivors of human trafficking emergency assistance to help them begin the process of healing, and are seeing an increased demand for these services. Confidential support and information is available 24 hours a day on the crisis line each service provider maintains. Advocates can provide assistance with protection orders, referrals to attorneys, and emotional support during court proceedings. By utilizing a combination of shelters and hotels, short-term emergency shelter is available. Emergency transportation to shelter is also provided 24 hours a day if the survivor is unable to get to the location on her or his own. Staff and

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

Judiciary Committee  
February 23, 2017

---

volunteers can and will accompany a survivor to hospital emergency rooms and local medical offices, including being present during forensic exams if that is what the survivor wants. Our programs are located across the state, serving both urban and rural populations. There are also four tribal domestic violence and sexual assault programs serving the Ponca, Winnebago, Omaha, and Santee Sioux Nations. Proposals like LB289 that increase the penalties for human trafficking give victims a greater sense of courage to seek services from local domestic violence and sexual assault programs. The additional safety for survivors offered by this bill could lead to a rise in reporting, which will result in an increased need to provide these essential services. Additionally, it will eliminate the challenges associated with survivors who are forced into trafficking and then prosecuted as participants of these crimes. By passing LB289 you are providing vital protections to Nebraskans who are forced into sex and labor trafficking. In addition, you are sending a clear message that the safety and healing of victims is important and perpetrators will be held accountable. The Nebraska Coalition to End Sexual and Domestic Violence asks you to advance LB289. Thank you for your time. I'll be happy to answer any questions. [LB289]

SENATOR EBKE: Thank you, Ms. Huddle. Any questions? Senator Halloran. [LB289]

SENATOR HALLORAN: Thank you. Thank you once again for your testimony. It's always very fruitful. This is just a comment. I have never seen anyone--and this is a compliment--never seen anyone be able to pack in ten minutes into (laughter)... [LB289]

STEPHANIE HUDDLE: (Inaudible.) [LB289]

SENATOR HALLORAN: You talk faster than I can think but I appreciate your testimony. [LB289]

SENATOR EBKE: Anything else? Thanks for being here. [LB289]

STEPHANIE HUDDLE: Thank you. [LB289]

ROSALEE BURKE: (Exhibit 24) Good Afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Sister Rosalee Burke, R-o-s-a-l-e-e B-u-r-k-e. I am a Notre Dame sister and chair of the Coalition on Human Trafficking. Our coalition is working hard to help people realize that trafficking exists, recognize the signs of trafficking, and learn how to respond to trafficking activity. We have given hundreds of talks, raised the money to do two and plan a third advertising campaign in the Omaha area during the time of the College World Series and the Berkshire Hathaway meeting, and have trained the administration and workers in 70

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

Judiciary Committee  
February 23, 2017

---

hotels and motels within a 50-mile radius of Omaha to realize, recognize, and respond. We will begin training in hotels and motels in the Lincoln area in the next couple of months and will do so in three target areas of the state this year. The Nebraska Human Trafficking Task Force has asked us to do hotel/motel training throughout the entire state. Hotels are a common location for traffickers to use to exploit their victims. All of this work to fight trafficking involves hundreds of people who have other full-time jobs. They have given of their time and their own money to try to lessen this horrific evil. It is their faith, their passion for the dignity of the human being, and their compassion for the victim survivors that motivates them. It is extremely frustrating for all of us if after our work and the work of the law enforcement and the justice system the traffickers and buyers face minimal consequences and are immediately back at this activity, Those who offer residential treatment for survivors find that it takes two years in their facilities for survivors to be able to find and keep a job and live productively on their own. It costs \$55,000 to \$75,000 per year per person in residential treatment and that is asking for numerous professionals to volunteer their services. The amount of damage being done to a human being takes at least two years for them to recover enough to function in society. Our present punishment system does not come anywhere near matching the injury done to the individual by the trafficker and the buyer. We respectfully request that the Judiciary Committee to approve LB289. Thank you for your time and consideration. I would be happy to answer any questions. [LB289]

SENATOR EBKE: Thank you for being here today. Any questions? Guess not. Thank you. [LB289]

SHERRY MILLER: (Exhibit 25) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Sherry Miller, S-h-e-r-r-y, Miller, M-i-l-l-e-r, and I'm here today to speak on behalf of the membership of the League of Women Voters of Nebraska. I cannot begin to match the eloquence of the testimony I've heard while sitting here so I'm simply going to state the position that the League of Women Voters adopted in 2014. The League of Women Voters opposes all forms of domestic and international human trafficking of adults and children, including sex trafficking and labor trafficking. We consider human trafficking to be a form of modern-day slavery and believe that every measure should be taken and every effort should be made through legislation and changes in public policy to prevent human trafficking. Prosecution and penalization of traffickers and abusers should be established and existing law should be strictly enforced. Extensive essential services for victims should be applied where needed, and evidently always needed. Education and awareness programs on human trafficking should be established in our communities and in our schools and apparently in our truck stops, too, so. Now that's my statement of the position of the League of Women Voters of Nebraska and on that position we are available to help any organization, any individual, any law enforcement that may be taken to see that this is carried out, that we can indeed get LB289 passed and get a statute on the books to really address the issue where it is, not just the traffickers but also the

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

Judiciary Committee  
February 23, 2017

---

men and/or women who purchase their victims. That's my statement as the president of the League of Women Voters but I'm also a concerned private citizen who has suffered much personal worry about a runaway child in my extended family. She scared us half to death. She ran away three times. She would be gone two or three weeks at a time. We had no idea where she was. Our story did come to a safe conclusion but too many do not and too many families grieve over children lost to traffickers. I urge you to advance LB289 to General File without delay. Thank you. Questions? [LB289]

SENATOR EBKE: Thank you, Ms. Miller. Any questions? Thanks. [LB289]

SHERRY MILLER: You're welcome. [LB289]

ALICIA WEBBER: (Exhibit 26) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Alicia Webber. I am the...Alicia, A-l-i-c-i-a W-e-b-b-e-r. I am the coordinator for the...co-coordinator for the Nebraska Human Trafficking Task Force and also the program director for The Salvation Army's Fight to End Trafficking program, otherwise known as the SAFE-T program. My role is to partner with the Nebraska Attorney General's Office in developing the structure of NHTTF, specifically pertaining to the coordination and capacity building for service providers who serve survivors of sex and labor trafficking across the state. The Salvation Army's SAFE-T program provides service coordination and case management for survivors of all forms of trafficking across Nebraska as well as collaboration, training, and technical assistance for other service providers and law enforcement. Human trafficking is happening all across Nebraska. The SAFE-T program officially opened for referrals September 15 of 2016. As of yesterday, we have already directly served 25 individuals and provided technical assistance to another 24 agencies and concerned citizens regarding potential cases. Each survivor we have served experienced some level of violence at the hands of their trafficker, and some also at the hands of those who purchased them. Their experiences have threatened their sense of safety, security, self-esteem, mental health, physical health, and sobriety. For many, the journey for health and healing will take a lifetime. The Salvation Army supports LB289 because we cannot continue to look survivors in the eye and tell them that despite the trauma these perpetrators have inflicted on them, the state of Nebraska has little, if no, minimum mandatory sentence for these crimes. Honestly, the current law is protecting buyers and traffickers rather than the survivors and victims. As a task force, we are moving forward with arrests, prosecutions, and assistance to survivors. We need laws that continue to support our work and send a message to the people of Nebraska this is a serious crime, one that is not taken lightly, and that if you are caught there will be serious consequences. This is a market-driven issue and if we do not continue to make strides in holding traffickers and buyers accountable in this state, human trafficking will continue to cost Nebraskans time, money, and their sense of community safety. In the remaining time I have with you, I would like to encourage you to protect the wording on page 6, line 5, regarding protections for individuals who have been

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

Judiciary Committee  
February 23, 2017

---

trafficked but also may be viewed as a perpetrator. I was recently at a national conference wherein the survivor-presenter who spoke on this issue made it very clear that it was a part of everyone's job in her stable to recruit. There were serious consequences for not following her trafficker's rules. And many of the other survivors in the room voice very similar experiences. Also in my time as a direct service provider, I worked with some women who had been prosecuted as traffickers but suffered the same level of physical, mental, and emotional abuse as the others under their trafficker's control. Not only did they have the same healing to do as other survivors, but they also had the added barrier of a felony on their record. Again, I urge you to protect this language and thank you for your time and consideration. At this time I would be happy to answer any questions. [LB289]

SENATOR EBKE: Thank you, Ms. Webber. Senator Krist. [LB289]

SENATOR KRIST: Thanks for coming. In the past few years dealing with this subject matter, this committee has heard how difficult it is to treat a person who is being trafficked as a victim and not as a criminal. [LB289]

ALICIA WEBBER: Yes. [LB289]

SENATOR KRIST: You brought it up in your testimony, and I was kind of going to wait until the Attorney General's representative came up here, but what are we doing to make sure that we can not detain but at least protect for a period of time and talk to the person who is being pimped, give them an awareness of what their rights might be? Seems to me that we had...a couple years ago we just were having a problem being able to detain a person, and I don't like to use that terminology, but detain them long enough to help them. [LB289]

ALICIA WEBBER: Correct. [LB289]

SENATOR KRIST: Can you talk to that a little bit? [LB289]

ALICIA WEBBER: At this point I don't know if there's an easy answer to that. And Glen may have some other suggestions on where we're at. It really kind of depends at this point on independent law enforcement agencies when they are recovered. It also depends on if advocates are available as people are recovered. It's a tricky issue. You know, there's self-determination, unfortunately, for the survivors. If they're not ready, they're not ready, and sometimes you do just need to let them go and leave the door open and have them come back. But again, it's very much...it's very important to let them know that there are people out there who want to help them

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

Judiciary Committee  
February 23, 2017

---

and let them know their rights. So if there is somebody there at that point in time who can explain to them, it's very helpful in starting that process. [LB289]

SENATOR KRIST: Part of that seemed to be that we were talking about the communication process between law enforcement, the actual operation of taking the actual sting or the actual arrest, taking the process down... [LB289]

ALICIA WEBBER: Yes. [LB289]

SENATOR KRIST: ...and then having somebody available to separate the wheat and the chaff, so to speak, and talk to the person who is being victimized at that point. [LB289]

ALICIA WEBBER: Correct. [LB289]

SENATOR KRIST: Are we doing a good enough job with the programs that have been set up to do that? [LB289]

ALICIA WEBBER: That's something that we're still currently working on with the task force. We're not 100 percent operational at this point as the task force. As those operations begin to start this next year, we do...well, this year, we will have especially the SAFE-T program but also other advocates around the state involved in those operations. [LB289]

SENATOR KRIST: Just for the legislative history, I want to make it very clear that we are taking small bites of this apple and I think we're...in some cases I believe it's the right thing to do because we're going down the path and there are not a whole lot of unintended consequences. But for me, one of the big parts of this is what I describe as protecting those kids that are being victimized by the process. And, you know, we could...we basically, by federal law and by all sense of morality, shouldn't be charging them with anything. [LB289]

ALICIA WEBBER: Agreed. [LB289]

SENATOR KRIST: But we have to be protecting them. So maybe that's the next step in the Pansing era, so, the Pansing Brooks era (laughter). Thank you very much for your testimony. [LB289]

ALICIA WEBBER: Thank you. [LB289]

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

Judiciary Committee  
February 23, 2017

---

SENATOR EBKE: Any other questions? Thank you for being here today. [LB289]

ALICIA WEBBER: Thank you. [LB289]

LIENE TOPKO: (Exhibit 27) Chairwoman Ebke and the Judiciary Committee, my name is Liene Topko, for the record, L-i-e-n-e T-o-p-k-o. I am here speaking for myself in support of LB289. I am a second-year master of public health student at the University of Nebraska Medical Center's College of Public Health. Throughout my educational career, I do not remember discussing domestic violence, let alone sex trafficking. I heard more about it during my undergrad at the University of Iowa, and I learned even more after coming here and getting involved with the campus group called EMPOWER. EMPOWER is an interprofessional group focused on increasing awareness and providing opportunities for future healthcare professionals to become involved in efforts to minimize domestic and sexual violence in our community and beyond. Throughout my involvement with EMPOWER, I've had the opportunity to learn more about sexual violence and trafficking through panel discussions, documentaries, and now a four-part seminar. One of the scariest facts that I've learned is just how prevalent sex trafficking is in Nebraska, especially in Omaha, Lincoln, and Grand Island, but it is not limited to these areas alone. That is not something I would have ever suspected, and I would suspect that many others living in Nebraska have not either. Healthcare providers see survivors on a daily basis but yet they do not know that they are victims of trafficking, or if they suspect it, they do not know what they could do about it. The average age of entering into sex trade is 13--that's our seventh graders. We have laws to protect children from abuse and, if we suspect abuse, to report it; then should we not have the same duty to protect those we suspect of trafficking? Often when people hear of sex trafficking, they think of other nations and say how terrible it is, but the reality is that it happens right here in Nebraska and we need to do something about it. As a future healthcare professional, I feel it is our duty to help these victims of trafficking, women, men, and children. We need stronger penalties for the perpetrators and remove the blame from the victims. We should not have to fear that our Nebraska youth could be sex trafficked and then their bodies sold all throughout the country and even beyond. In a study of survivors entitled "Nebraska Sex Trafficking Survivors Speak" by Dr. Shireen Rajaram at UNMC and Professor Sriyani Tidball at UNL, one survivor said: People think of a man...who would solicit sex as someone who was...some pervert. It's not the case. It's a regular old guy. It's a politician. It's a doctor. It's a lawyer. It's a lonely man...it's all kinds of people that you'd never believe, end quote. In closing, it is our duty that citizens of Nebraska...as citizens of Nebraska to protect our sisters, brothers, mothers, fathers, children, neighbors, and friends. The penalties need to be tougher for those selling someone's child and those who are purchasing someone's child for sex. [LB289]

SENATOR EBKE: Thank you. Any questions? Seeing none, thank you. [LB289]



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

Judiciary Committee  
February 23, 2017

---

LIENE TOPKO: Thank you. [LB289]

SENATOR EBKE: Somebody on the way up? If there are other proponents, please move up so that we... [LB289]

JASEL CANTU: (Exhibit 28) Good afternoon. My name is Jasel Cantu, J-a-s-e-l C-a-n-t-u, and I am the public information officer with the Nebraska Latino American Commission, and am the designee from the commission to serve as a member of the Governor's Task Force on Human Trafficking. I am in favor of LB289. I support this bill due to several factors: the increase in penalties, the inclusion of labor trafficked victims, foster care, and overall data gathering for reports. This bill will also require agencies to accumulate and report data on the foster care system. Based on feedback from law enforcement and organizations that work with trafficked victims, I believe the increase in penalties will be productive in fighting human trafficking. The more risks and punishment for the crimes of trafficking, the less likely people will want to engage. Foster care has repeatedly been mentioned in local and national human trafficking reports. By keeping track of the trafficking victims in foster care with a statewide register, this will be a step in the right direction. Labor trafficking is often an overlooked area of human trafficking in general. The people most at risk of being victims of labor trafficking are non-English speakers and immigrants. Many do not seek help due to their lack of English skills or risk of deportation, either of themselves or someone they know. In some cases I have heard, there is no risk of deportation, but they believe whatever their trafficker or employer tells them and this lack of knowledge is used against them. Their immigration status is used as coercion and exploitation. By including these victims and the methods of exploitation in this bill, they will not be left out of the conversation and data collection. The lack of data has been a constant problem in evaluating the scope of trafficking of children in Nebraska. It is my hope that the data and subsequent reports, including legislative reports, will shed a continuous needed light on the issue that will result in necessary steps and future bills to help resolve it. The data can also be used in regional and national human trafficking and foster care reports, which will allow the state to be included in national data that has left Nebraska out of coverage. I would like to include that I am most appreciative that the bill will include race and ethnicity, which will help identify which groups are at most risk for trafficking. As having been involved in human trafficking advocacy for the past five years, I am looking forward to the benefits and data that this bill will bring to Nebraska. Thank you. [LB289]

SENATOR EBKE: Thank you for being here today. Any questions? Thanks. [LB289]

JASEL CANTU: Thank you. [LB289]

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

Judiciary Committee  
February 23, 2017

---

TOM VENZOR: (Exhibit 29) Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Tom Venzor; that's T-o-m V-e-n-z-o-r, and I'm the executive director of the Nebraska Catholic Conference which represents the mutual public policy interests of the three Catholic bishops serving in Nebraska. Pope Francis has stated that, "Human trafficking is an open wound on the body of contemporary society, (and) a scourge upon the body of Christ. It is a crime against humanity." Human trafficking is fundamentally an issue about the human person and our relationships with one another. As Pope Francis has also noted, "the growing scourge of man's exploitation by man gravely damages the life of communion and our calling to forge interpersonal relations marked by respect, justice and love." When the individual and community work to heal the wounds of human trafficking, they are witnesses to solidarity, the reality that the human person is intrinsically social, that we are equal in dignity, committed to unity, and that our interdependence entails a moral requirement to care for one another. We begin to look at the other no longer as a slave but more than a slave, as a beloved brother and sister, as scripture states. I want to pull one last statement from Pope Francis in an address on human trafficking: Let us not look the other way. In proposing and supporting LB289 and previous reforms to deal with the sin of human trafficking, the state of Nebraska sends a strong message of solidarity to victims and a stern message to perpetrators that the hand of justice will not turn away. Because of that, we thank Senator Pansing Brooks and all those across the political spectrum for supporting continued reform on human trafficking and for all those who work tirelessly in the trenches to bring this dark practice into the light. The church will continue to work with you at the international, national, and local level to battle against the exploitation of the human person. We encourage the Judiciary Committee to advance LB289 to General File and thank you for your time and consideration. [LB289]

SENATOR EBKE: Thank you, Mr. Venzor. Any questions? I guess not. Thank you. [LB289]

TOM VENZOR: Thank you. [LB289]

SENATOR EBKE: Next proponent. [LB289]

GLEN PARKS: Good afternoon, Chairperson Ebke and fellow members of this committee. My name is Glen Parks; that's G-l-e-n P-a-r-k-s. And since December, I have been the coordinator of the Nebraska Human Trafficking Task Force which is situated in the AG's Office. And I appear here on behalf of the AG's Office, the Attorney General's Office, and the task force in support of this bill. As you've already heard, the task force was created about a year and a half ago and now includes many law enforcement office agencies and service providers and community partners, many/most of whom, most of those who spoke before me today are part of the task force. In my job as coordinator, I've crisscrossed this state speaking with people about this issue and I've observed Nebraskans' outrage at human trafficking once they learn it actually happens here. And

I think there's a...I feel there's a growing demand to do all we can to stop it in this state. One important part of that strategy of course is enforcement, substantial criminal disincentives to both selling human beings and to buying them. This bill, were it to become law, would be a powerful tool in this comprehensive fight. LB289 does a lot of things but in my perspective two main things are what I want to emphasize today, that is, the focus on buyers and the increased penalties. Human trafficking is a market. It's an illegal one but it is susceptible to market forces of supply and demand. And I appreciate this bill's focus on demand and it does that in two major ways. The already existing crime of sex trafficking of a minor would include solicitation here on page 5, lines 2 and 4. Solicitation, solicitor, of course, is a buyer of sex. In this case it's a buyer of sex of someone under 18. This will drive down the demand for minors. The second way in which this bill addresses demand is the new crime at the bottom of page 5, starting in line 29, the new crime of solicitation of a trafficking victim. This again addresses demand by holding the buyer responsible for participating not just in prostitution but in the trafficking of a human being. The second major aspect is the increase in penalties. That kind of stands for itself but I would like to say one thing about that. I have gotten the impression that Nebraskans have a certain opinion about human trafficking in this state. And let me just say I think the penalties in this bill more accurately reflect that opinion. So the Attorney General in his office, in concert with the task force, we do support this bill as a welcome and significant next step in the fight against trafficking and I want to thank the senator for her leadership in this. [LB289]

SENATOR EBKE: Thank you for being here. [LB289]

GLEN PARKS: I'm happy to... [LB289]

SENATOR EBKE: Senator Krist. [LB289]

SENATOR KRIST: Can you address my previous question? [LB289]

GLEN PARKS: I can. I think Alicia did a good job. I very much feel the tension there and--I think Alicia is right--there's not...at least at the moment there's not an easy answer. And if there is a legislative fix that can come down next time, that would be great. I do want to emphasize a couple of things. One is that with the MOUs that we're developing the regional teams, in there it emphasizes the need to have an advocate, victim advocate at the earliest point of contact. So if there's a proactive raid, they have to be there, and if it's a reactive raid as soon as possible, to try to get...to try to create a relationship with the victim that isn't accusing them of a crime so that we can, as soon as possible, develop that relationship. I also think it's important for the committee to know that this task force is intentionally...it's from a federal grant that's intentionally multidisciplinary. That's why Alicia Webber from The Salvation Army is a co-coordinator of this task force. And we have been discussing this issue and trying to find out how

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

Judiciary Committee  
February 23, 2017

---

to protect, as you said, these victims when they are often on drugs, they're very much under the psychological pressure and really bondage of this. And so I'm acknowledging the issue and I understand that we're doing what we can to try to mitigate it but I don't know that there is an easy answer for that. [LB289]

SENATOR KRIST: Okay. You know that, having been here for the last three years or so that we've been going down this path, the first thing that the county attorneys, the prosecutors, and law enforcement said was we've got to charge them. Okay, that was a room full of people that said we have to charge them. And most of us who knew the federal law at that point and the way that the money comes from the federal government, it would be impossible to charge them and continue to participate in some of these programs. I say that because I don't often look to the federal government for any guidance but someone has got to be doing something that protects the kids, the young people that are involved, particularly the juveniles, and has the answer, because you talked about them being under the influence of something or being coerced or being violated in a way that is mental, which basically holds them to where they are. [LB289]

GLEN PARKS: Right. [LB289]

SENATOR KRIST: Just that by itself would be a difficult situation for a law enforcement officer who comes upon a situation where he's got a pimp, he's got a john, and then he's got this little girl or this little boy. That's a big concern for me and I think that I was not necessarily all in line with Salvation Army getting this contract because I thought there was a network out there that already existed. Now let me back up and say they've done a great job. You've done a great job. We've done a great job, I think. But that's a missing piece and if we don't focus on that we're not going to fix it. [LB289]

GLEN PARKS: I take that to heart and I will--as I mentioned in my opening statement, I'm a little bit new to this particular task force and that is something we look at--I'll take that to heart. And I do want to also talk about as perhaps part of the solution our work with DHHS and the probation and juvenile officials in trying to perhaps have a longer, a better picture of what's going on when/if it is that these vulnerable children are the ones that are caught. So I do take that to heart and I will consider; we'll keep talking about what we can find. [LB289]

SENATOR KRIST: Thank you. [LB289]

SENATOR EBKE: Any other questions? Okay, thank you for being here today. Do we have more proponents? Any other proponents? Opponents? [LB289]

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

Judiciary Committee  
February 23, 2017

---

SPIKE EICKHOLT: Good afternoon, Madam Chair, members of the committee. My name is Spike Eickholt, first name S-p-i-k-e, last name E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association. We are opposed to the bill. When our organization...our organization is made up of defense attorneys, attorneys who practice in criminal defense. And when we look at legislation and proposed legislation, we look at it in terms of how this is going to be read in the statute books and how it's going to be implemented in the courtroom. We are testifying against the bill. I am not testifying against anyone who testified here today on behalf of themselves or on behalf of others. Senator Pansing Brooks explained that there are two main components of the bill. One is the increase in penalties. As in other bills, we have opposed that and I would just submit, and some of what Senator Krist mentioned earlier, that increasing penalties, while that does send a message, it does not necessarily help in the detection of crime, it does not help in the apprehension of offenders, and it does not necessarily help in the prosecution of cases. There are things that can be done to address this problem beyond increasing penalties or other than increasing penalties across the board. Increasing penalties is concerning to us because sometimes you have clients who are innocent. Sometimes you have clients where you have a defense. And the problem with increased penalties, particularly mandatory minimums, and the proposal that's in this bill that each offense shall be consecutive, and that's on page 6, lines 9 through 11, to any other offense, not just a trafficking offense but any other kind of crime, is that when you have a client who has a defense or is innocent but you are looking at a de facto life sentence at the end of it, it just affects adversely your right to meaningfully represent that person. And that has happened in Nebraska. It happened with the Beatrice Six. People pled. Kathy Gonzalez explained exactly what she meant in her civil case, why she pled to a crime, a homicide that she knew she didn't commit, and that is because she knew if she pled to the recommended sentence they were going to do for the plea, she wouldn't die in a cage. We're concerned about that. The secondary concern we have, although everyone seems to agree this is a horrible crime, this becomes, if you will, a watermark for other, later offenses. One of the proposed penalties is a IB felony. That's 20 to life. That is more serious than existing homicide offenses. It's more serious than manslaughter. It's more serious than motor vehicle homicide. We would argue that raising that proportional bar is bad policy. There are some concerns that we have regarding the secondary portion of the bill and that is the addition of "recklessly" on pages 5 and 6, the recklessly element mens rea for proving these significant felonies...penalties. Typically in the serious Class II-level felonies and more, the state is required to show intentional or knowing: that someone knew what they were doing, intended what they were doing. This bill would allow simply should have known, a reckless standard, and it's our concern that that is problematic. So we oppose the bill for the reasons that I stated. [LB289]

SENATOR EBKE: Thank you, Mr. Eickholt. Any questions? Okay, thanks. Any other opposition? Anyone in the neutral capacity? Senator Pansing Brooks, I'm going to read letters into the record while you... [LB289]

SENATOR PANSING BROOKS: Okay. [LB289]

SENATOR EBKE: (Exhibits 1-8)...get situated. We have letters in support from Lawrence Gendler of the Sarpy County Juvenile Court; Ashley Robertson of Project Response; Toni Jensen of the Nebraska Coalition for Victims of Crime; Tessa Foreman from the Nebraskans for Peace; Megan Mikolajczyk, Planned Parenthood of the Heartland; Kaleigh Nelsen, National Association of Social Workers of Nebraska; Peg Harriott, Children and Family Coalition of Nebraska; and Molly Keane. We had none in opposition and one in the neutral capacity: Nathan Leach. [LB289]

SENATOR PANSING BROOKS: Thank you, Senator Ebke and members of the Judiciary. I'm grateful that you all sat and paid such close attention. I'm also really grateful to all the testifiers who came and I thought told various parts of the whole story, and I thought they all did a good job and I want to thank them. Just in response to Mr. Eickholt, you know, there wasn't a suggestion about what would be a more appropriate penalty for strapping somebody down and raping them with a hot curling iron as a child. And I can think of very few actions that are worse than that. So clearly we have to be worried about bad actors that are in the police department that erroneously charge or...but that's not what we're talking about. I mean that's another issue other than the fact that we have a hideous crime going on in our society right now and we need to respond. Senator Krist, you made...had a good question. And again, I think all of this comes down to communication. We just had a human trafficking sting in the past, I don't know, three weeks in Lincoln and they listed each of the people that they charged with prostitution but it was a human trafficking sting, so why did they choose them...or charge them with prostitution and then place their names in the paper? They're either victims or they're not, so what happened to last year's law? So again, I don't know and I have...I put out a call to the police department in Lincoln about that. Maybe it was a citation rather than a charge. Maybe that was a difference that they see where they cited and they can, you know, keep in touch with the person up to a court date and then because the law last year granted immunity from a charge of prostitution if you have been trafficked. So I don't know if they're citing and so then you can then have the person come and testify against the trafficker. I don't know how it's all working. You're right, we need to figure this out. Part of the problem is we're all just realizing all this is occurring within the past five to seven years really. And we're trying to react quickly in a way. Last year was a slower step. This year it is hopefully a huge bite of that apple and not just a small bite so. And clearly communication is the key. We have got to communicate this and spread the word far and wide across Nebraska. We have to make sure people understand that we are dealing with victims and criminals. The criminals are the traffickers and the purchasers and the victims are the people who keep getting charged with prostitution. So again, it's a sea change of understanding in our minds. You know, one of the next main steps is expungement for the victims. There is no reason that somebody who has been trafficked should have that on their record. And so that's another step in

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

Judiciary Committee  
February 23, 2017

---

the path as we go forward. So I thank you for your patience and your time on all this and I hope you'll forward it to the floor; unanimously, that's what I hope. [LB289]

SENATOR EBKE: Senator Krist, a question? [LB289]

SENATOR KRIST: I have a tendency sometimes to get on the soapbox but I'm not getting off of this one. Glen, you have to do something about the kids, the victims. They truly are victims and the situation that you bring up in Lincoln, I know of a situation in Omaha, it's no different, so, and I don't blame law enforcement. When you arrive at that location or you're involved with that, what are you going to do? You can't very well just say go home because they're not capable of doing that. It's probably one of the most disturbing things for me personally, particularly when we're talking about kids that may be special needs, maybe not be able to understand, may be under the influence, I mean, there's all kinds of reasons why. But we need to do like we usually do and put a microscope on it. It just keeps getting...it gets to me when I think about that hearing three years ago when every law enforcement, every county attorney, every prosecutor came up here and said we don't have anything else to do, we've got to throw them in jail, it's the only way we can protect them, the only way we can get to them. There's got to be an answer, got to be an answer. [LB289]

SENATOR PANSING BROOKS: And I do think process...that I think they are trying to come up with processes and I appreciate that and I agree it needs to be better. The Attorney General's Office is attempting to go across the state and train law enforcement officers about this sea change that we have victims rather than criminals being charged with prostitution. [LB289]

SENATOR KRIST: Thank you. [LB289]

SENATOR PANSING BROOKS: Thank you very much. [LB289]

SENATOR EBKE: Anything else? Okay, this concludes the hearing on LB289. We're going to take about a seven-minute break. We will resume at 3:40. [LB289]

BREAK

SENATOR EBKE: When we get to it, how many are planning on testifying on LB191? One, two, three. Go five minutes, okay? So you don't have to rush quite so much. (Laughter) [LB191]

SENATOR PANSING BROOKS: (Recorder malfunction)...thank you, Chair Ebke and fellow members of the Judiciary Committee. For the record, I am Patty Pansing Brooks, P-a-t-t-y P-a-n-

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

Judiciary Committee  
February 23, 2017

---

s-i-n-g B-r-o-o-k-s, representing District 28 right here in the heart of Lincoln. Today I am here to introduce LB191. LB191 will ensure that any survivor of domestic violence may file a petition, an affidavit to renew a protection order 30 days before the expiration of their previous protection order. It's pretty simple. Survivors of domestic violence benefit from protection orders because it increases their safety and gives them peace of mind knowing that their perpetrator can suffer legal consequences if they choose to violate the protection order. Survivors often find there is a need for protection beyond the one-year time frame currently designated by Nebraska Revised Statute 42-924. Under current law, the protection order must expire before a petitioner can file for a new protection order. It has to expire. A perpetrator may adhere to every aspect of a protection order only to begin harassing, contacting, or physically harming his or her victim directly after its expiration. Once the protection order expires, victims may have to wait days for a new protection order to be granted and served on the perpetrator. Awaiting a new protection order can be a very dangerous and fearful time for a survivor of domestic violence. However, LB191 would adequately close this gap of time ensuring that there is no lapse of protection for survivors. Protection orders are extremely important as data from the Centers for Disease Control and Prevention estimates that one in four women will experience domestic violence and one in seven men have experienced severe physical violence by an intimate partner. On a typical day, domestic violence hotlines nationwide receive approximately 20,800 calls and domestic violence accounts for 15 percent of all violent crime according to the National Coalition Against Domestic Violence. In 2015, every domestic violence program in Nebraska participated in a one-day count by the National Network to End Domestic Violence of adults and children seeking domestic violence services. Within that day, 153 victims resided in emergency shelters, 319 adults and children received counseling assistance and/or legal advocacy, and 222 crisis hotline calls were answered on that specific day. LB191 is a practical way to avoid an unnecessary and unreasonable gap in protection and ensure that these victims have an added peace of mind for themselves and their children in dangerous and heartbreaking circumstances. In closing, I would ask that you advance LB191 to General File. And with that, I'm happy to answer any questions you may have. [LB191]

SENATOR EBKE: Any questions for... [LB191]

SENATOR PANSING BROOKS: Welcome, Senator Baker. (Laughter) [LB191]

SENATOR EBKE: ...for Senator Pansing Brooks? [LB191]

SENATOR BAKER: Where were we? Just starting with it? [LB191]

SENATOR PANSING BROOKS: You missed. Any questions? [LB191]



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

Judiciary Committee  
February 23, 2017

---

SENATOR BAKER: I missed whatever you said. [LB191]

SENATOR PANSING BROOKS: I know. It's okay. [LB191]

SENATOR EBKE: And just a reminder, we're going to five minutes on this one, but you don't have to take that much. Okay, first proponent. [LB191]

VIRGINIA WOLKING: (Exhibit 2) My name is Virginia Wolking, Virginia just like the state, Wolking, W-o-l-k-i-n-g, and I am here to testify in support of LB191. This issue is deeply personal to me because I have a protection order against the man who abused me throughout our relationship and it continued after I was able to escape the relationship with my then four-month-old son. For years, this man continued to use visitation exchanges to continue to abuse and control me. When I tried to have that addressed in civil court, a district judge in Burt County-- which is in...which is where the Tekamah...the courthouse is in Tekamah in Burt County-- ordered that he could only contact me via text or email and only to communicate about our son. When this happened, he switched his form of abuse and harassment to dozens of text messages every day starting early in the morning and often ending late at night. He also used visitation exchanges, where I was forced to see him because he refused to drop off our son with anyone else, to continue the controlling behavior. I ignored him because eventually I thought he would move on. But finally, on June 30, 2016, he assaulted me in the lobby of the Omaha Police Headquarters. After that, I applied for a protection order and it was granted beginning on July 26, 2016. And honestly, that was one of the best days of my life. In my protection order petition, I wrote: I fear that if I do not obtain a protection order, he will continue to harass me, causing harm to both me and my son, Forrest. During our most recent interaction at the police station on June 29, I was also concerned for my physical safety. Although I have done my best to avoid in-person interactions with him, such as having pick-up and drop-off done directly at Forrest's school, he has created situations where we are forced be in the same physical space. I fear his behaviors have escalated and I am now concerned for my overall safety--both physically and mentally--and the possibility of our son witnessing a violent act by his father to his mother. In order to protect everyone involved, I requested an order of protection be granted. Though my abuser has violated the protection order on two different occasions, it freed me and my son from the terror that he imposed in our daily lives. My protection order expiration date is almost six months away and I'm already filled with dread and anxiety as the date gets closer. If LB191 is passed, that would remove that dread and anxiety for me and so many others people who are in my position. LB191 would allow domestic abuse survivors to apply for a new protection order up to 30 days before the previous protection order expires. Establishing this time period is essential for keeping survivors like me safe. I ask you that approve LB191 and strongly advocate for its passage. I also wanted to note something. When you said that the gap could be a matter of days, so you can see in my testimony that I have filed for the protection order on June 30 and it was not granted until July 26 and that was because I applied for it in Douglas County which is

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

Judiciary Committee  
February 23, 2017

---

where I live and the abuser lives in a rural part of the state, Burt County. So it took a while to get him served. And so depending on the location where both people involved live, this gap could not...if this bill is not passed, this gap could be not just days but up to a month as in my case. I'm happy to answer any questions. Thank you for your time. [LB191]

SENATOR EBKE: Thank you. Any questions? Thanks for coming here today. Next proponent. Senator Halloran is happy to know that you've got five minutes instead of three. (Laughter) [LB191]

STEPHANIE HUDDLE: (Exhibit 3) I will try to go much slower. Good afternoon, Chairperson Ebke, members of the Judiciary Committee. My name is Stephanie Huddle, S-t-e-p-h-a-n-i-e H-u-d-d-l-e. I am the public policy coordinator for the Nebraska Coalition to End Sexual and Domestic Violence and I am here to testify regarding our support of LB191. Nebraska Coalition to End Sexual and Domestic Violence is a statewide nonprofit advocacy organization committed to the prevention and elimination of sexual and domestic violence. We provide training and program capacity building to Nebraska's network of domestic violence and sexual assault programs, supporting and building upon the services they provide. Our mission is to enhance safety and justice by changing the beliefs that perpetuate domestic violence and sexual assault. We believe LB191 is an effort to do just that and will allow those who have been subjected to domestic violence to be better served throughout Nebraska. And most of what is in my testimony, as you'll see from the letter I submitted, were some statistics and information that Senator Pansing Brooks has already talked about. So I will not repeat that. But what I would like to stress very strongly is just the fact that it is so inconsistent with what we know about domestic violence to have that protection order expire and then to have to actually wait for a new incident, to have someone just live in that fear that something is going to happen. And perpetrators know exactly when that order expires. I mean they keep track of that very closely. And for some of the perpetrators it is just a matter of time for them before they start that behavior again which can lead to physical violence and, you know, everything else that we've kind of talked about. So that is one thing that I very, very much wanted to stress, that this would...it would close the gap that exists currently in our laws and it would also just extend those protections that already currently exist. So you can read my full letter and kind of see some of those other...the statistics in there again as well. But the Nebraska Coalition is very supportive of this bill and we would ask that you advance this to help protect survivors of domestic violence. So, thank you for your time and I will be happy to answer any questions. [LB191]

SENATOR EBKE: Thank you, Ms. Huddle. Any questions? Senator Halloran. [LB191]

SENATOR HALLORAN: I hope I didn't discourage you from reading that. (Laughter) [LB191]

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

Judiciary Committee  
February 23, 2017

---

STEPHANIE HUDDLE: No. No, absolutely not. It's just my statistics were just...they were...already been mentioned by Senator Pansing Brooks. [LB191]

SENATOR HALLORAN: Thank you. [LB191]

STEPHANIE HUDDLE: Yeah. [LB191]

SENATOR EBKE: Any other questions? Thanks for being here. [LB191]

STEPHANIE HUDDLE: Thank you. [LB191]

MARCEE METZGER: (Exhibit 4) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Marcee Metzger, M-a-r-c-e-e M-e-t-z-g-e-r, and I'm testifying in support of LB191 because I believe it really will increase the safety of victims of domestic violence in our state. I am the executive director of Voices of Hope which is a nonprofit agency in Lincoln, Nebraska, that's been providing 24-hour crisis intervention services for more than 40 years. Those advocacy and crisis intervention services are for victims of domestic violence, dating violence, sexual assault, stalking, human trafficking, and related forms of abuse. In 2016, we provided unduplicated face-to-face advocacy to over 1,900 adults with 3 of them being male and 500 children. One of the services we provide is assistance with safety planning and protection orders. And in 2016 we assisted with 276 of those protection orders. Protection orders can be a good safety tool when they are in place. The Family Violence Council in Lincoln and our community response team has been monitoring protection orders in Lancaster County for more than ten years. The reports indicate that victims who have protection orders have their safety improved. This is measured by both reports to law enforcement, to advocacy agencies like ours and victim witness unit of the police department, and direct surveys of victims. Currently, our community has been conducting an assessment of how protection orders are working to improve the victims' safety and holding perpetrators accountable in Lancaster County. And representatives from the Lincoln Police Department, the Lancaster County Sheriff's Department, the Nebraska State Patrol, the Clerk of the District Court, Victim Witness Unit, the Family Violence Council, and Voices of Hope are participating in this review. And during this process we heard from several victims who had protection orders and stated that the protection orders helped protect them from their abusers in lots and lots of ways. They described how they believed that the protection orders had kept them safer from their abusers while they were able to put in place other kinds of safety measures like finding shelter or family support. Several identified the problem with their victim's order expiration, which is why we brought this forward. One of the victims told us she had been battered for years, receiving medical attention, and called law enforcement on several occasions. She'd filed for and received a protection order. It was violated and her abuser was sent to jail. He served three months and when he was

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

Judiciary Committee  
February 23, 2017

---

released...and then was released. He had not violated the order again for several months after it had expired. She told us that she tried to file another order before this one had expired and she told us that she was not eligible until the first court order had been expired. She couldn't even apply for it. Her order expired on a Saturday night...on a Saturday and she couldn't apply for it again for a new one until Monday. She was battered again on Sunday and she experienced traumatic brain injury. By passing LB191, you would effectively close a gap to victim safety that currently exists in regards to protection orders, ensuring the victims have no longer a lapse in this protection for all of...themselves and their children. Voices of Hope asks for you to advance this bill, LB191, forward. And I'm happy to answer any questions. [LB191]

SENATOR EBKE: Thank you, Ms. Metzger. Any questions? Thank you. Do we have any other proponents? Okay. Do we have any opponents of LB191? Do we have anyone in the neutral capacity? (Exhibit 1) We have a couple of letters: One from Kate McDougall of the National Association of Social Workers in support; one neutral from Nathan Leach. Senator Pansing Brooks. [LB191]

SENATOR PANSING BROOKS: Thank you. I just want to thank everybody for sitting here and listening to this. It's seems like a really pretty quick fix to something and an easy way to protect people from...and allow their protection orders to continue seamlessly without a break or a gap in coverage. So with that, I thank you all for your attention to this and hope we'll pass this bill to the floor. [LB191]

SENATOR EBKE: Thank you. Any questions? Senator Halloran. [LB191]

SENATOR HALLORAN: It's a nothing fiscal note, but that just amazes me, \$80,000. Where do they come up with \$75,000 for programming? [LB191]

SENATOR PANSING BROOKS: I don't know. I'm sorry about this because I'm worried that this might not have happened if we were making such big cuts to all the different agencies right now, and so maybe all of a sudden because this isn't that much of an increase. [LB191]

SENATOR HALLORAN: You wouldn't think so. [LB191]

SENATOR PANSING BROOKS: But now I think we're going to nickel and dime every single portion because I noticed that all (inaudible). [LB191]

SENATOR HALLORAN: Well, my point is it doesn't seem...\$75,000 to do programming for this? What programming? I mean this is crazy. [LB191]

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

Judiciary Committee  
February 23, 2017

---

SENATOR PANSING BROOKS: Yeah, I know. [LB191]

SENATOR HALLORAN: Anyway. [LB191]

SENATOR PANSING BROOKS: And that's the problem with this. So, I don't know. Very disappointing. [LB191]

SENATOR EBKE: Senator Krist. [LB191]

SENATOR KRIST: Just out of curiosity, when did you get this fiscal note? [LB191]

SENATOR PANSING BROOKS: Today. [LB191]

SENATOR KRIST: Today? Okay. Point made. [LB191]

SENATOR PANSING BROOKS: Thank you. [LB191]

SENATOR EBKE: Okay. Any other questions? Thanks. This closes the hearing on LB191. We're going to move to LB394. Whenever you're ready, Senator Morfeld. [LB191]

SENATOR MORFELD: Senator Ebke, members of the Judiciary Committee, my name is Adam Morfeld. For the record, that's A-d-a-m M-o-r-f-e-l-d, representing the "Fighting" 46th Legislative District, here today to introduce LB394. LB394 would prohibit the possession or purchase of a firearm by a person who is currently subject to a domestic violence protection order. LB394 would update the Nebraska law to be in accord with federal law and would join 26 other states including the surrounding states of Colorado and Iowa and the District of Columbia that currently...those that currently have a similar law on the books. In the past few years, states as politically diverse as Alabama, Louisiana, Nevada, and Virginia have enacted this legislation with bipartisan support as well. The reasons for this bill and change in statute are many but most importantly is the safety issue that could save lives. We must do what we can to protect victims of domestic violence from their abusers. Federal law already prohibits gun possession by domestic abusers who are currently subject to a domestic violence protection order that are issued after notice in a hearing. Most states have laws that automatically prohibit domestic abusers subject to a protection order from having guns, but Nebraska does not. These laws enable state and local law enforcement to protect women and families by keeping guns out of the hands of their abusers. Cities and states that restrict access to firearms by those under domestic violence protection orders see a 25 percent reduction in intimate partner gun homicides. More than half of all women who are killed with guns in America are murdered by their partners. This

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

Judiciary Committee  
February 23, 2017

---

is not an abstract problem but one that Nebraska residents face every day. On September 12, 2012, 541 victims received services from Nebraska's 21 domestic violence and sexual assault programs and these same 21 domestic violence and sexual assault programs receive 311 crisis calls. That's just a sampling of one day. Current Nebraska law provides that when a person can't possess a firearm, if they are in violation...I want to repeat this. Current Nebraska law provides that a person can't possess a firearm if they are in violation of a domestic violence protection order or harassment protection order. What LB394 forbids is the possession of a firearm for those with a domestic violence protection order only. So instead of prohibiting just simply after they have violated the domestic violence protection order, this makes it so that once there is a domestic violence protection order, regardless of violation of it or not, they are prohibited from having a firearm and requires a judge to inform the respondent of that prohibition and tell them that such possession is a felony. So there is a notice requirement. The current law makes it too easy for dangerous domestic abusers to access guns. Nebraska should act to protect victims of domestic violence by prohibiting possession by domestic abusers currently subject to protection orders. On a personal note, my mother was a single mother for many years. And after we moved into her boyfriend's home I vividly remember him beating her repeatedly. At the age of eight I would run downstairs to the basement and attempt to call my grandma. Sometimes I would make it in time; other times I would not. And then he would beat me. One night my mother decided to finally fight back. And when he came after her she hit him in defense, he called the police and she was charged and convicted of simple assault. That evening as a child I learned an interesting lesson about our criminal justice system. But more importantly, it led to her finally leaving him. Sorry, I thought I could make it through that. At a very young age I realized that domestic violence is about power. And when the abuser feels powerless they will stop at nothing to gain that power including killing those who they love. That is why so many women and sometimes their children die. Had my mother not had a strong family and friend support network she and I could have very well been another statistic and perhaps I would not be here before you today. This would bring Nebraska in line with federal law and empower state and local law enforcement to keep guns out of dangerous abusers' hands during a highly volatile and dangerous time. I urge your favorable consideration of LB394 and would be happy to answer any questions that the committee may have. [LB394]

SENATOR EBKE: Thank you, Senator. Senator Baker. [LB394]

SENATOR BAKER: Thank you, Senator Ebke. Senator Morfeld, clarify for me. Say they can't be in possession, does that mean they can't own one off site? [LB394]

SENATOR MORFELD: Actually, yeah, that's a great question, Senator. And there's a difference between possession and ownership. So once this protection order is put into place, they can actually give the gun to a friend or family member to hold in possession until the protection order expires. [LB394]

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

Judiciary Committee  
February 23, 2017

---

SENATOR BAKER: Thank you. [LB394]

SENATOR MORFELD: Ownership is different than possession and I appreciate you bringing out that distinction. [LB394]

SENATOR EBKE: Any other questions? I have one. Legal counsel suggested, thought, considered that should LB178 move, that we might want to add sexual assault protection orders to this. [LB394]

SENATOR MORFELD: Certainly. [LB394]

SENATOR EBKE: Do you have a problem with that? [LB394]

SENATOR MORFELD: I have no problem with that whatsoever. [LB394]

SENATOR EBKE: So, something for us to keep in mind as we exec and consider. [LB394]

SENATOR MORFELD: Thank you. [LB394]

SENATOR EBKE: Thank you. Any other questions? Okay, thank you. Any proponents? Any opponents? Anyone in the neutral? I have letters. (Laughter) (Exhibits 1-8) LB394 letters of support from David Partsch of the Nebraska County Attorneys Association; Mary Sullivan of the National Association of Social Workers; Nancy Meyer; Stephanie Huddle of the Nebraska Coalition to End Sexual Assault and Domestic Violence; Toni Jensen, Nebraska Coalition for Victims of Crime; League of Women Voters of Nebraska; in opposition, Christopher Kopacki of the National Rifle Association; in the neutral position, ACLU of Nebraska and Nathan Leach. Senator, would you like to close? [LB394]

SENATOR MORFELD: I would just like to note to the committee that there's a first time for everything. Thank you. [LB394]

SENATOR EBKE: Thanks. This closes the hearing on LB394 and we will open our hearing on LB487. [LB394]

SENATOR MORFELD: Senator Ebke, members of the Judiciary Committee, my name is Adam Morfeld. For the record, that's A-d-a-m M-o-r-f-e-l-d, representing the "Fighting" 46th Legislative District, here today to introduce LB487. LB487 grants limited immunity to persons

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

Judiciary Committee  
February 23, 2017

---

seeking help for themselves and/or someone else in need of immediate medical attention due to a controlled substance overdose. The law will only apply to an individual who, one, is experiencing an overdose, two, is the first person to call for medical assistance and, three, stays on the scene and cooperates fully with law enforcement when medical attention arrives. This law would apply to the person calling and the person in need of medical attention. This legislation mirrors legislation providing limited immunity from underage Nebraskans experiencing alcohol poisoning that I introduced and passed almost unanimously in 2015. LB487 ensures that we are putting lives of Nebraskans first while still ensuring accountability. As I noted above, the Legislature passed two bills into law last year that pertain to LB487...or I should say passed two laws into law the last legislative...last Legislature that pertain to LB487. It was 2015-2016. I introduced LB439 two years ago which granted limited immunity for minors seeking medical attention for themselves or another person experiencing acute alcohol intoxication. In addition, I introduced LB546 which would make life saving...make the life-saving drug naloxone more readily available to family members and friends of those addicted to opiates. In a number of other states these three measures have been passed together. We must put lives first and provide opportunities for Nebraskans to seek medical attention when it is needed. Across the country, we have seen a recent epidemic of drug overdoses. Part of this can be attributed to the prudent tightening and increased mandatory monitoring of prescription drugs--the bill we passed last session and one that I strongly supported. That being said, there are those who become addicted to prescription drugs then move to street drugs which are often more dangerous and unpredictable. The state of Massachusetts along with many others have seen an unprecedented rise in drug overdose deaths. I recently visited that state for a legislative leadership program that I attended at Harvard, and law enforcement and medical professionals alike stated that the key to saving lives is to enact proactive laws that provide access to medical care and put safety and lives first and possession charges second. Coming back to Nebraska for a moment, according to a report published in 2014 by the Nebraska Department of Health and Human Services, drug overdose deaths have quadrupled since 1999 and are responsible for 146 deaths in 2012 alone. And these are just the ones we know about. We know there are many, many more that go undocumented as drug overdose deaths. Tragic deaths can be avoided with policies such as this and Nebraska would join 34 other states and the District of Columbia with similar laws in different forms if LB487 is passed. It is also important to note that the law would only apply to the possession of a controlled substance or drug paraphernalia if evidence for the charge was gained as a result of an overdose and needed for medical attention. It does not provide immunity for distribution or other crimes or offenses. I want to repeat. It does not provide immunity for distribution or other charges and offenses, only for the possession of a controlled substance and paraphernalia charge. It also requires that those availing themselves of immunity cooperate with medical authorities and the police fully. This bill gives ample discretion to law enforcement in the event of the person manufacturing or having the intent to distribute a controlled substance, among other crimes. In addition, this type of immunity has already been tested through the passage of LB439 for MIPs and that has proven to be effective, particularly on college campuses.



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

Judiciary Committee  
February 23, 2017

---

If the passage of this bill can save one life and encourage one person to make the call for medical assistance when needed it will be worth it. This is a commonsense drug policy that maintains strong penalties for those dealing in manufacturing drugs. Thank you for your consideration. I urge you to advance LB487 to the floor. I'd be happy to answer any questions that you may have. [LB487]

SENATOR EBKE: Senator Krist has a question. [LB487]

SENATOR KRIST: Play devil's advocate for me for just a second... [LB487]

SENATOR MORFELD: Sure. [LB487]

SENATOR KRIST: ...or with me, Senator Morfeld. On page 9, it defines that person who will not be in violation and it specifies that that person was the first person to make a request and then must stay and cooperate and all that. Can you see a situation where there might be two or three people that want to stay with that with that person who is... [LB487]

SENATOR MORFELD: Yeah. [LB487]

SENATOR KRIST: ...now basically incapacitated? There are no evil law enforcement officers or lawyers, but do you see where I'm going with this? [LB487]

SENATOR MORFELD: I see where you're going. And, Senator, this is actually a discussion that we've had with a lot of people at length. So...and I believe this discussion actually came up on the floor in LB439. [LB487]

SENATOR KRIST: I know it did. [LB487]

SENATOR MORFELD: So what if four or five people call at the same time at the house party? My preference is personally to be more liberal in the interpretation of this and provide more immunity to more people that are trying to do the right thing. That being said, I know that there are also legitimate concerns from law enforcement that an entire house would claim immunity or something like that of that nature. Now, I think more practical application of this laws are the...how it would work in real life is somebody would be experiencing an overdose and one person would decide to stay and call and help and then the other people may go. Now, that brings up another interesting question. Do you want a bunch of people who have been doing drugs or alcohol leaving the premises and going wherever they're going to go? It's a balancing act. I decided to stay with one person: the person that is either if they're having a drug overdose and

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

Judiciary Committee  
February 23, 2017

---

they know they need help they can get just immunity for themselves and if they can still call or the individual that's trying to help them. I think that that's going to be the safest approach and the best approach and the easiest approach to administer under this law. [LB487]

SENATOR KRIST: So the reason I ask the question obviously is to establish a legislative record in here and also to make a recommendation. Should this bill move forward, maybe we need to extract some of the floor debate that went on, on this situation to establish that we've had this discussion and that it is working in other issues. [LB487]

SENATOR MORFELD: Certainly. [LB487]

SENATOR KRIST: But you know I support this, so I want to make sure that we put it on the record. Thank you. [LB487]

SENATOR MORFELD: I appreciate that, Senator. And just so you know, I think that there's somebody behind me that may have a suggestion to that effect. So we can have that discussion and I'm open to kind of testing the waters and seeing where people are at. [LB487]

SENATOR KRIST: Thank you. [LB487]

SENATOR EBKE: Any other questions? Senator Halloran. [LB487]

SENATOR HALLORAN: I'm just curious, do you think, I mean if this were to pass...I don't know the culture that well. But would...but it's only going to be as successful as awareness of the law protecting someone that wants to do that. I mean does the word...this is a hypothetical. Does word travel fast enough? Or I mean will word travel that, hey, you know, if somebody ODs, somebody can call and that's okay? There will be some protection for them. I mean... [LB487]

SENATOR MORFELD: Yeah, and you know, there's no A bill or funding to spread public awareness on this and that's...to a certain extent we didn't do that for LB439. We didn't do it for this. That being said, on LB439, the MIP one, the college campuses were incredibly proactive. They actually put together a whole media campaign around it that was pretty compelling. I'll show it to you. I would hope that substance abuse treatment centers, hospitals, and other folks would do that. And just like I worked with the colleges to help them with that, I would encourage the medical associations and other folks to do something similar. But you bring up a great point, Senator. [LB487]

SENATOR HALLORAN: Okay. [LB487]

SENATOR EBKE: Any other questions? Okay. First proponent. [LB487]

JANE THEOBALD: Chair Ebke and members of the Judiciary Committee, my name is Jane Theobald, J-a-n-e T-h-e-o-b-a-l-d. I'm here on behalf of the Nebraska Medical Association in support of LB487. For the last...for over ten years I have been a psychiatrist providing constant liaison care at a hospital in Omaha. And during that time, I've also had a clinic specializing in the care of chronic pain patients. And it's from this perspective and personal experience that I've watched the epidemic of opiate misuse unfold. At the hospital I see most people that are admitted for unintentional and intentional overdose. In this role I've witnessed parents weeping over an intubated son after finding him unresponsive in their bathroom with a needle hanging out of his arm. I've seen a wife weeping over her husband that's clinging to life after his parents found him cold in their bed barely breathing and she was at work, and many other similar situations. These folks weep because they're afraid. They feel helpless. They're angry. But mostly they weep because their loved one is alive. For the most part, I see the fortunate ones, the ones that are alive because someone found them in the nick of time. I don't see those found cold and lifeless, but I know that happens too. And those mothers and fathers and wives and husbands and children weep a very different kind of tears. Moments count in overdose situations. The single best predictor of recovery from opiate misuse is time. It's not access to treatment. It's not family support. It's not economic status. It's not even supply. It's time. All those other things are important. The difference between opiate and other substance of abuse is that one single miscalculation of dose can result in death. And we don't see that with the other drugs of abuse. Usually that's a prolonged death. But with opiate misuse, it's very easy to have one unfortunate event. In December of 2014, my daughter came home from college in heroin withdrawal. I was dumbfounded. She's a smart girl. She finished college in four years away from home. She's pretty. She's fun. She's ambitious. People love her. But she's used heroin. And since that day, I feared for my daughter's life. Every single time she doesn't answer a text immediately I get a cold knot in the pit of my stomach because I'm afraid...not because I'm afraid she's using but...and I hope she isn't. But I fear for her life because I know one single misstep at any time can be deadly. Not long after finding all this out about my daughter, she was a passenger in a car accident. The driver fled the scene because he was intoxicated. He didn't make sure my daughter was okay. He just ran. He was afraid of legal consequences. This is a man she's used with. And if under other circumstances he found my daughter dying of a heroin overdose, I fear he'd do the same. Believe me, I'd be eternally grateful to this man, a man that's used heroin with my daughter, if he administered naloxone and called for help because he found my daughter unresponsive. And I shudder to think that he might run because of legal consequences. Having naloxone available does not increase drug use and that's been outlined in multiple studies. It does save lives. It gives people time and time is this single best chance that these folks have for becoming or continuing to be contributing citizens to our society. So for my family, for your families, for all of Nebraskans, I wholeheartedly support this bill and encourage you to do the same. I'd be happy to provide you any references...some references for the studies that I referred

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

Judiciary Committee  
February 23, 2017

---

to you if you would find that helpful, and I appreciate you allowing me to testify before you today. I'd be happy to answer any questions. [LB487]

SENATOR EBKE: Any questions? Senator Pansing Brooks. [LB487]

SENATOR PANSING BROOKS: Thank you for coming and speaking today. You have great courage. And I have a daughter away at school, so it's very much touching my heart. And it's so important when people have the stories to tell give the example of real life situations. So thank you for your courage. [LB487]

JANE THEOBALD: You're very welcome. [LB487]

SENATOR EBKE: Okay. Thank you. Other proponents. [LB487]

JOSHUA SHASSERRE: Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Joshua Shasserre, J-o-s-h-u-a S-h-a-s-s-e-r-r-e. I'm here testifying as a proponent of LB487 on behalf of the Attorney General. We want to, first of all, commend Senator Morfeld for his efforts previously in terms of allowing for increased use of naloxone and for bringing this particular bill. The Attorney General is in favor of this bill, as Senator Morfeld mentioned, because a majority of states do have something similar in their respective statutes. And in terms of our efforts in fighting opioid abuse, I just wanted to reiterate to the committee that back in October, the Attorney General conducted a large seminar with U.S. Attorney Deb Gilg, the University of Nebraska Medical Center, DHHS, and many others which brought in speakers to testify as to the impact of opioid abuse. Attorney General Peterson has had an interest in this issue particularly in light of the advances we've made with the prescription drug monitoring program and the presumption that as we get better in terms of closing down prescription drug diversion, that we will necessarily have an increase in illicit opioid abuse, as has seen in other states. So after that summit in October, we've continued to press on in our coalition with the University of Nebraska Medical Center, Creighton Medical Center, and all of our other coalition partners in terms of doing more to advance awareness under sort of a three-legged stool of prevention, treatment, and law enforcement. These elements all have to work in concert together and according to U.S. Attorney Deb Gilg, this is kind of an unprecedented effort in the state of Nebraska. And one of the first things we've done with that is, to Senator Halloran's question previously, is we've actually developed an awareness campaign, and it's called Dose of Reality, that was first developed through the Wisconsin Attorney General's Office. And it's a high-quality production. And we're...been very fortunate that the Nebraska Broadcasters Association and Press Association has allowed for the airing of those PSAs throughout the course of the year. And one of those PSAs is really directly on point with the underlying issue with LB487. So with that, I'll answer any questions that you may have. [LB487]

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

Judiciary Committee  
February 23, 2017

---

SENATOR EBKE: Senator Krist. [LB487]

SENATOR KRIST: Not so much a question but just a comment, you encapsulate it very well. This has been an all-out, all-discipline campaign to try to bring in focus starting with the PDMP, I think, where we are able to identify and track the drug in terms of where they are. But one of the last steps in that is getting our veterinarians on board with their drugs. It's no longer as easy as going to mom and dad's medicine cabinet. You can actually go to the barn in some cases and get what you need. So I applaud the Attorney General for a multidisciplined approach that you all have taken because that's what it's going to take. Thank you. Thanks for coming. [LB487]

JOSHUA SHASSERRE: Thank you. [LB487]

SENATOR EBKE: Any other questions? Thanks for being here. Other proponents. [LB487]

SPIKE EICKHOLT: Madam Chair, members of the committee, Spike Eickholt, first name S-p-i-k-e, last name E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association in support of the bill. You've heard the policy reasons for this bill. I'm not going to restate those. But I would tell the members that I do practice criminal defense. Our members all do. We are seeing more and more opioid cases, possession, distribution, more heroin cases. This is a real issue. I would speak to one thing that Senator Krist asked Senator Morfeld about and that is on page 9, lines 27. We would suggest, our organization, as a friendly amendment inserting the word, after the word "person," the words "or persons" because, as Senator Krist explained, if you do have situations where multiple people request help and they do stay on the scene and they do cooperate with law enforcement, sometimes it's not until well after the investigation is completed when you figure out who the first person who calls. I mean I've worked a number of different cases. I've looked at police reports. And many times 911 calls are made by multiple people just literally seconds or portions of seconds apart. And I don't think at the time, the scene is probably chaotic, no one really knows. They're not told by the dispatcher, people who answer the phones, that you are the first caller. I think as Senator Morfeld explained that if it is a liberal interpretation of the bill and that is provide immunity to all those who do sort of comply with the bill's intent. I see the flip side argument that law enforcement might have, that you're sort of giving an umbrella protection to everyone who happens to be there. But I think the other requirements in the bill, that the person has to remain on scene and cooperate, may capture that. So that's just a friendly amendment that we would have. Whether that has that amendment or not, we still support the bill. [LB487]

SENATOR EBKE: Senator Krist. [LB487]

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

Judiciary Committee  
February 23, 2017

---

SENATOR KRIST: Just a point, and I know we'll talk about it and I know that Senator Morfeld has made his intention clear. But I don't know if anyone else has had the experience, but just to stay around and administer CPR is almost a two- or three-man operation depending upon how long it takes for someone to get. I had an occasion where two of us were working constantly just trying to keep a person alive until somebody got there. So I think it is critical to address person or persons potentially or persons or persons administering to or caring for before they get there. I don't know what the right words are, but I worry that one person can't potentially do what he or she needs to do. So just for the record. Thank you. [LB487]

SENATOR EBKE: Thanks. Any questions? Okay, thank you. Other proponents. [LB487]

JOE NIGRO: Good afternoon. My name is Joe Nigro; that's J-o-e N-i-g-r-o. I'm the public defender for Lancaster County and I appear on behalf of the Nebraska State Bar Association in support of LB487. The Bar Association takes positions on legislation which further the administration of justice. This bill would further the administration of justice by encouraging people to seek medical help for themselves or others due to a drug overdose. The current law creates a risk that these individuals could face prosecution for possession of a controlled substance or possession of drug paraphernalia. That fear of prosecution could cause people to die rather than seeking help. The bill also protects providers who administer medication which can save someone from an opiate overdose. The House of Delegates of the Bar Association endorsed this bill without dissent. The Nebraska Bar Association normally shies away from controversy and it's significant that the Bar did not see this bill as controversial. This bill furthers the administration of justice because it encourages people to do the right thing. LB487 will save lives and we urge you to advance it out of committee. Those are my prepared remarks on behalf of the Bar. I did want to address--and I'm just going to speak for myself as someone who's been a public defender for 33 years--Senator Halloran had questions about how you get the word out to the community. And the reality is with the community of people we represent, it will be a challenge. They're not people who are generally reading the newspaper every day and following the passage of legislation. You can do things like, for example, we have Matt Talbot Kitchen here in Lincoln or the Mission. I mean you could try to get words out...the word out through places like that and hopefully it will spread. And I think connected to that, Senator Krist's questions about, you know, if it's only one person is that going to cause a problem? And I know that Senator Morfeld in crafting this bill is trying to find something that will garner enough support to pass because politics is the art of the possible. If Senator Morfeld finds that there is support to expand that then I'm sure he would consider doing that. It seems to me when I picture a situation where somebody may have overdosed at a party, there may be more than one person at that party who used drugs with the person who has the overdose. And the lifesaving providers, it would be good for them to know exactly what that person has ingested when they ingested it and those kinds of things. And so from my own perspective--I'm not speaking on behalf of the Bar right now; I'm speaking from my experience as a public defender--if there is a way to craft this to

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

Judiciary Committee  
February 23, 2017

---

expand it to include more people and still garner the kind of support necessary for passage I would urge you to do that. But I trust that Senator Morfeld will assess that along the way. But this bill could save lives. And as Lancaster County Public Defender and representing the Bar Association, I urge you to advance it. I'm happy to take any questions. [LB487]

SENATOR EBKE: Any questions for Mr. Nigro? Senator Halloran. [LB487]

SENATOR HALLORAN: In support of Senator Krist's suggestion on the more than one, and your suggestion as well, sir, this is more subliminal, but sometimes there's security in numbers. You know, there's confidence in numbers. If one person says, look, I'll stay if you stay, that kind of thing, I mean, that may not be as quite as sellable, but I think there's some of that there where people will say, gosh, I'm going to run. Well, if you stay, I'll stay and help them out. [LB487]

SENATOR EBKE: Anything else? Okay, thank you. [LB487]

JOE NIGRO: Thank you. [LB487]

SENATOR EBKE: Any other proponents? Do we have any opponents? [LB487]

JASON AUSMAN: Good afternoon. Chairperson Ebke, members of the committee, my name is Jason Ausman; it's J-a-s-o-n A-u-s-m-a-n. I'm here this afternoon on behalf of the Nebraska Association of Trial Attorneys. Importantly, we are not here in opposition to this bill in its entirety. We are here consistent with our position in other bills that contain immunity clauses. We generally don't think that they are a good thing. With this particular bill, the provision that discusses immunity for emergency providers is particularly troubling. Rather than blanket immunity in this situation, we believe that the standard should be that of a reasonable care provider consistent with the applicable standard of care and consistent with the training and education that they've been given to respond to a given situation. We believe that immunity removes from a jury the ability to hear the facts before those facts would be presented. So with that said, it's only the portion of the bill that deals with immunity for emergency providers who are acting in good faith. And frankly, we believe all emergency responders act in good faith nearly all of the time, if not all of the time, and that is our rub with this particular bill. I'd be happy to answer any questions. [LB487]

SENATOR EBKE: Senator Krist. [LB487]

SENATOR KRIST: Can you point me to the text in LB394, please, line number? [LB487]

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

Judiciary Committee  
February 23, 2017

---

JASON AUSMAN: LB487, Senator? [LB487]

SENATOR KRIST: Yeah. [LB487]

JASON AUSMAN: Yes, it is right...it's...actually I don't have the line. I've just got a shortened version but it starts with the language "additionally." It says additionally it would provide that an emergency provider who, acting in good faith, administers naloxone is not liable for damages as a result of his "acts of commission or omission" or "of his or her failure to act or provide or arrange" or further treat. [LB487]

SENATOR KRIST: Okay. We're dealing with a school bill that has to do with an EpiPen issue that is very similar to that. So I just wanted to make sure we were talking about emergency responders and not necessarily...yeah, okay. I got it. Thank you. [LB487]

JASON AUSMAN: You're welcome. [LB487]

SENATOR BAKER: What page, Bob? [LB487]

SENATOR KRIST: It's...I'll find it, but it's...did you find it? [LB487]

BRENT SMOYER: It's all in Section 6. [LB487]

SENATOR KRIST: All in Section 6? [LB487]

BRENT SMOYER: Yeah. [LB487]

SENATOR KRIST: Okay. All right. [LB487]

BRENT SMOYER: Starts with line 19 of page 11 and goes over to... [LB487]

SENATOR PANSING BROOKS: What page? [LB487]

BRENT SMOYER: Page 11, line 19 is the emergency responder application. [LB487]



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

Judiciary Committee  
February 23, 2017

---

SENATOR KRIST: "(An) emergency responder who," and then it's eliminated, "acting in good faith, obtains naloxone from the emergency responder's emergency medical service...shall not be," and then it gives the liability. Okay. Got it. Thank you. [LB487]

SENATOR EBKE: Any other questions? Okay. Thanks. [LB487]

JASON AUSMAN: Thank you, Senators. [LB487]

SENATOR EBKE: Any other opponents? Do we have anybody in the neutral capacity today? Okay, I've got letters and Senator Morfeld can close. (Exhibits 1-3) We have letters of support from Sarah Hanify of the National Association of Social Workers, Nebraska Chapter; Joni Cover of the Nebraska Pharmacists Association; and Gerald Stilmock of the Nebraska State Volunteer Firefighters Association; no letters of opposition and one neutral from Nathan Leach. Senator Morfeld. [LB487]

SENATOR MORFELD: Thank you, Chairwoman Ebke. First off I'd like to thank everybody for coming and testifying in support. To my friends at the trial attorneys, this is an issue that they brought up to me ahead of time, so I appreciate that. I think it's an issue that we can discuss a little bit. This immunity on page 12 was taken out of the same type of immunity that emergency care providers, physician assistants, and other folks assisting in a public emergency care. And so we just mirrored that. That being said, I'm willing to talk to everybody and see if it's absolutely necessary. And if it's not then we can go from there. With that being said, I'm also more than willing to look at the number of individuals. I started out being fairly conservative on it. My legislative aide just told me that in Wisconsin they actually have a more liberal version of this, including other states. But I do want to talk to the stakeholders, including the prosecutors and Attorney General's Office along with public defenders as well and get their feedback on it. [LB487]

SENATOR EBKE: Great. Questions? Senator Halloran. [LB487]

SENATOR HALLORAN: Can I make a suggestion? [LB487]

SENATOR MORFELD: Sure. [LB487]

SENATOR HALLORAN: That when it comes to the floor that instead of saying something like I looked at other states that had a more liberal version of it, I wouldn't. (Laughter) That's just a suggestion. [LB487]

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

Judiciary Committee  
February 23, 2017

---

SENATOR MORFELD: A more expansive version. [LB487]

SENATOR EBKE: There you go. [LB487]

SENATOR MORFELD: A broader. [LB487]

SENATOR HALLORAN: More progressive. [LB487]

SENATOR MORFELD: That's actually great political advice. Thank you, Senator Halloran.  
[LB487]

SENATOR EBKE: Senator Krist. [LB487]

SENATOR KRIST: It's also nice to see that Spike came back over to the good side. (Laughter)  
[LB487]

SENATOR MORFELD: Hopefully Senator Pansing Brooks is smiling at him. [LB487]

SENATOR EBKE: That closes our hearing on LB487 and that closes our hearings for today.  
Thank you all for being here. [LB487]