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Judiciary Committee
January 24, 2018

[LB670 LB673 LB689 LB708 LB714 LB774 LB870]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, January 24, 2018, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB774, LB870, LB689, LB708, LB714, LB670, and LB673. Senators present: Laura Ebke, Chairperson; Patty Pansing Brooks, Vice Chairperson; Roy Baker; Ernie Chambers; Steve Halloran; Matt Hansen; Bob Krist; and Adam Morfeld. Senators absent: None.

SENATOR EBKE: Good afternoon. I'm going to get started with the preliminaries while we wait for Senator Pansing Brooks to get here. Welcome to the Judiciary Committee. My name is Laura Ebke. I chair this committee. I represent Crete, District 32. I'd like to start off by having members introduce themselves. [LB774]

SENATOR BAKER: Roy Baker, District 30, southern Lincoln, Lancaster County, and Gage County. [LB774]

SENATOR EBKE: Just wave, Patty. [LB774]

SENATOR PANSING BROOKS: Hi. Senator Patty Pansing Brooks, District 28. [LB774]

SENATOR HALLORAN: Good afternoon. Senator Steve Halloran, District 33, which is Adams County and parts of Hall County. [LB774]

SENATOR EBKE: And I believe Senator Krist and Senator Morfeld and Senator Chambers and Senator Hansen will probably join us here soon. Assisting the committee today are Laurie Vollertsen, our committee clerk; Tim Hruza, one of our two legal counsels. Our committee pages are Rebecca Daugherty and Sam Baird. On the table over there by that pillar, you will find some yellow testifier sheets. If you are planning to testify, please fill one out and hand it to the page when you come up to testify. This helps us to keep accurate records of the hearing. There's also a white sheet on the table if you don't wish to testify but would like to record your position on a bill. Also, for future reference, if you're not testifying in person on a bill and would like to submit a letter for the official record, all committees have a deadline of 5:00 p.m. the day before for written records. We will begin bill testimony with the introducer's opening statement. Following the opening, we'll hear from proponents of the bill, then opponents, followed by those speaking in a neutral capacity. We'll finish with a closing statement by the introducer if they wish to give one. We ask that you begin your testimony by giving us your first and last name and spell them for the record. If you are going to testify, I ask that you keep the on-deck chair, which is one of those two chairs with yellow signs on them, filled. If you have any handouts, please bring

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Transcriber's Office

Judiciary Committee
January 24, 2018

up at least 12 copies and give them to the page. If you don't have enough copies, the page can help you make more. We'll be using a three-minute light system. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning that you should be wrapping up. And when the red light comes on, we ask that you'd wrap up your final thought and stop. At three minutes and 30 seconds, you will hear an audible buzzer go off which means you are done. We have seven hearings today which means that we have to keep things moving. As a matter of committee policy, I would like to remind everyone that the use of cell phones and other electronic devices is not allowed during public hearings. If you need to use your phone, please step out into the hall. Senators may use them to take notes on the...or stay in contact with their staff; some use their computers as well. At this time I'd like to ask everyone to look at their cell phones and make sure that they are in silent mode. One more thing, you may notice some of us getting up, coming and going and so forth. That has nothing to do with the importance of the bills being heard. I, for instance, have a bill in another committee that I'll have to be leaving in a little bit. So with that, let's begin our hearings for today with Senator Pansing Brooks's LB774. [LB774]

SENATOR PANSING BROOKS: Thank you, Chair Ebke, and good afternoon, 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 introducing LB774 today to clarify conflicting statutes regarding peace officers and what happens when a child is taken into temporary custody. The Omaha Police Department contacted my office last year with concerns that current statutes appear to be...to conflict with one another and, thus, do not allow them to have appropriate flexibility to simply release a juvenile under the age of 11 who is taken into temporary custody. As they are interpreting Nebraska Revised Statute 43-250(2), a peace officer has to deliver a child under 11 to the Department of Health and Human Services when they are taken into temporary custody pursuant to subsection (2), subsection (7), or subsection (8) of Nebraska Revised Statute 43-248. This interpretation of statute is the exact opposite of what we had intended with LB894 when we passed this legislation in 2016. We definitely want peace officers to have this option. Often a child will end up in temporary custody for minor offenses and it is very appropriate for that child to simply be released. Lieutenant George Merithew and Omaha Councilmember Aimee Melton are here today--Lieutenant George Merithew is here from the Omaha Police Department--and they will shed some light on these types of scenarios. The goal should always be to create the least trauma for the child. In short, LB774 simply clarifies that a peace officer may release a juvenile taken into temporary custody under Section 43-248(8). Child advocates, including Voices for Children, support this requested change. I want to thank the Omaha Police Department for bringing this necessary clarification to my attention. And in closing, I would ask that you advance LB774 to General File. With that, I'll be glad to answer any questions or you can certainly ask Lieutenant Merithew behind me. [LB774]

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

Judiciary Committee
January 24, 2018

SENATOR EBKE: Questions for Senator Pansing Brooks? [LB774]

SENATOR PANSING BROOKS: Thank you. [LB774]

SENATOR EBKE: Okay. First proponent. [LB774]

GEORGE MERITHEW: I'm Lieutenant George Merithew, G-e-o-r-g-e M-e-r-i-t-h-e-w. I'm a lieutenant with the Omaha Police Department. I write policies and implement the legislative bills when they come through. And as we were looking at LB894 last year, which took effect on July 1 of 2017, we discovered that when you look at all of the bill...or all of the statutes that are affected in that bill, and there's about seven or eight of them and you kind of have to jump back and forth between them, but as we discovered, what we're supposed to do with a child who is 10 or younger, under 11 in the statutory language, we have no choice that when we take control of them--we're not supposed to use the term "custody" anymore for a child that young--when we have control of them, the only place we can deliver them is to the Department of Health and Human Services, which for us is Project Harmony in Omaha. That creates a problem, and we immediately looked for minor offenses, including traffic offenses. Any minor offense is covered by that. So if we catch a young child, a shoplifter, ten or younger, we have to take that child and deliver them to the Department of Health and Human Services, which is then required to do a 48-hour home study and home check on the young child, and that's extremely traumatic and it's what we want to avoid at all costs. We checked and in 2016 there were 47 children ten or younger that were arrested in Omaha, at that time taken into custody. Of that 47, 1 was a felony. The rest of them were all misdemeanors, a couple of minor shoplift...couple of minor graffiti charges, the rest of them were shoplifting and trespassing--very minor charges--and yet under the new bill that took effect July 1 of 2017, we would have had to turn all 47 of those children over to Department of Health and Human Services. So the scenario we came up with, or the example we came, is a parent who is trying to do the right thing. Their nine-year-old walks out of the store with a candy bar. All of a sudden, the parent wants to do the right thing, takes the kid back to the store. The merchant calls us because that's what the parent wants done. He wants to impress upon the child how serious it is to steal. Under the shoplifting rules, the only person, once they take custody or they take supervision of the shoplifter, the only person that a merchant can turn that over to is law enforcement. Now they're in our control. Now we have this child whose parent is just trying to do the right thing, probably a merchant that doesn't want to charge them, doesn't even want a report done, and we have to take them for 48 hours to DHHS. That's just wrong. So we would very much...are very much in support of this bill, very much appreciate Senator Pansing Brooks for introducing it to create equity. Our officers have the ability to, and the discretion to determine when a child that young should be removed and we shouldn't be compelled to do that. Thank you. Subject to your questions. [LB774]

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

Judiciary Committee
January 24, 2018

SENATOR EBKE: Okay, thank you. Senator Baker. [LB774]

SENATOR BAKER: Thank you. So how long has it been this way? [LB774]

GEORGE MERITHEW: Since July 1 of 2017, when LB894 went into effect. [LB774]

SENATOR BAKER: What was, remind me, LB894? What was that purporting to do? [LB774]

GEORGE MERITHEW: It was purporting to...and it's extremely convoluted. That particular LB had information on what the authority of the juvenile courts were and it originally purported to take away jurisdiction of the juvenile courts over children ten and younger, and then in certain areas it gave it back to them. It was very complex and it literally jumps around to about seven different statutes. It also had a lot of information because all of this stuff didn't take effect until July 1, and that's another thing that Senator Pansing Brooks took care of is cleaned up all the before July 1 of 2017, and after July 1, 2017, so that language was gotten rid of. So prior to that the officers had the ability to street release any child to their parents, and then the juvenile courts would have jurisdiction to determine this is pretty minor, this is dumb. Or if no charges were preferred, we were allowed to let them go. But once we were...we received them under a shoplifting, for example, the merchant taking custody of the shoplifter under the statutes, they can only turn them over to us and now they're in our custody. And even if the merchant doesn't want to prosecute, we still have a child under ten or ten or under in our custody and under the bill the only place we could take them was to DHHS. [LB774]

SENATOR BAKER: Can you estimate how many times this has happened? [LB774]

GEORGE MERITHEW: Well, in 2016, it would have been 47 times. [LB774]

SENATOR BAKER: Okay. [LB774]

GEORGE MERITHEW: In 20...or, excuse me, in 2016 it would have been 47. That's the last numbers I got together. We don't have the 2017 numbers compiled yet. [LB774]

SENATOR BAKER: Right. [LB774]

GEORGE MERITHEW: But since it took effect, I know there have been at least five cases where that's happened in Omaha. Four of them, our officers ignored the law and street released them anyway, so, which is dangerous for our officers. That's a bad position to put them in. [LB774]

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

Judiciary Committee
January 24, 2018

SENATOR BAKER: Thank you. [LB774]

SENATOR EBKE: Other questions? Thank you, Lieutenant. [LB774]

GEORGE MERITHEW: Thank you. [LB774]

SENATOR EBKE: Yep. Next proponent. [LB774]

AIMEE MELTON: Hello, Senators. I'm Aimee Melton, A-i-m-e-e M-e-l-t-o-n. I'm here from the Omaha City Council. I can assure the senators when this came to our attention, all seven councilmembers overwhelmingly supported having this change. We actually weren't aware of it until they brought it to us, as well, and it really just makes sense. I'm also here, I'm also a practicing family law attorney and do some practice in juvenile court and work with families, so I'm here to answer any questions, just let you know that we certainly don't want to put our officers in a position where they need to not follow the law or the statutes but that's where they're at right now if they just want to do the right thing. So I would hope that all of you would support, and I'm here to answer any questions. [LB774]

SENATOR EBKE: Any questions for the councilwoman? Thank you very much. [LB774]

AIMEE MELTON: Thank you. [LB774]

SENATOR EBKE: Are there any other proponents? [LB774]

JULIET SUMMERS: Good afternoon, Chair Ebke and members of the Judiciary Committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm not going to take your time because I actually e-mailed my testimony yesterday intending to just submit a letter of support on this bill. But Voices for Children does support it. The reason I jumped up is, Senator Baker, I wanted the opportunity to answer your question and see if there were any other further questions about the initial LB894 that underlay this bill. So LB894 was a juvenile justice package. In the end, it did quite a few things. The original bill that was this set of provisions was LB893 and what it did was it set a minimum age for charging children in the juvenile court so that kids too young to comprehend court proceedings wouldn't be facing charges themselves, undercutting sort of the constitutional you need to be able to understand proceedings against you. So to do that, our statute, as a prior testifier noted, is very convoluted in the way...listing in one statute who can be taken into temporary custody, in another statute for what reasons, in another piece of code then what officers can do with each of those different categories of youth. And so in the sort of complex nature of that statute, working on LB893, these kids were to follow the path...if they

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

Judiciary Committee
January 24, 2018

needed to be taken into temporary custody, they were follow the DHHS path. What we didn't envision is that there would be situations where law enforcement, it might still be a really minor charge, but the nature of the situation was such that law enforcement had taken temporary custody. The idea is already if law enforcement doesn't have to take custody in every situation, they can already just let kids go. But once they have, we want to make sure with this bill, this cleanup, that they can still let them go to their parents. That's all from me. [LB774]

SENATOR EBKE: Any questions? [LB774]

JULIET SUMMERS: Thank you for your time. [LB774]

SENATOR EBKE: Guess not. Thank you. Are there any other proponents? [LB774]

MAUREEN MONAHAN: Good morning, Senators--afternoon now. Maureen Monahan, M-o-n-a-h-a-n, I'm here on behalf of the State Bar Association. I have practiced for 16 years in the juvenile courts. That's majority of my practice. The State Bar is in favor of this bill. I know you have a lot of other testimony. I'm happy to answer any questions if anyone, any senator has any. [LB774]

SENATOR EBKE: (Exhibits 1-3) Any questions? Guess not. Thank you for your testimony. Any other proponents? I see none. Are there any opponents? Is there anybody speaking in a neutral capacity? Senator Pansing Brooks waives. That concludes the hearing on LB774. Thank you for being here today. Oh, we do have some letters for the...in support from William Clark, the Boys Town Police Department; Juliet Summers for Voices for Children of Nebraska; and Juliet Summers (sic--Janee Pannkuk) for Operation Youth Success. I guess she was busy, huh, Juliet? (Laugh) Okay, LB870, this opens the hearing on LB870. [LB774]

SENATOR PANSING BROOKS: (Exhibits 8 and 9) 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 LB870 today to ban the use of juvenile solitary confinement, except when that confinement is necessary to eliminate a juvenile's substantial and immediate risk of harm to self or others. LB870 further specifies conditions of room confinement, what necessities should be available to any juvenile held in room confinement, who must be notified of placement in room confinement, and the procedures that shall take place following confinement. I wanted to first offer some background on what has led to this proposal. In 2016, the Nebraska Legislature passed LB894, a large juvenile justice package that included a bill that I brought to establish a system of investigation and performance review to provide increased accountability and oversight regarding the use of room confinement for juveniles in a juvenile facility. Nebraska law now

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

Judiciary Committee
January 24, 2018

requires facilities that serve children and youth to document information every time a child is placed into room confinement. It also requires that the Inspector General for Child Welfare to collect data, assess the use of room confinement, and present an annual report to the Legislature. In line with these new statutory requirements, the Inspector General released a report last month that shows that many facilities are grossly overusing room confinement. National best practices show that room confinement should only be used for reasons of safety and when less-intrusive interventions have been exhausted. Room confinement should not be used as a punishment, retaliation, or as a matter of administrative convenience. I cochaired a bipartisan National Conference of State Legislatures committee this past year with conservative State Senator Whitney Westerfield of Kentucky. Last week we released a "Principles of Effective Juvenile Justice Policy" report as a way to provide a best-practices framework regarding juvenile justice for states across this nation. I've provided you with a copy of this report as part of my introduction. One of the guiding principles deals with room confinement and says, "Conditions in residential facilities and other programs should be humane, supportive of rehabilitation"--I emphasize that word "rehabilitation"--"developmentally appropriate and 'trauma-informed,' incorporating practices that understand, recognize and respond to trauma." The report quotes the American Academy of Child and Adolescent Psychiatry which states, "The potential psychiatric consequences of prolonged solitary...are well recognized and include depression, anxiety and psychosis. Due to their developmental vulnerability, juvenile offenders are at particular risk of such adverse reactions. Furthermore, the majority of suicides in juvenile correctional facilities occur when the individual is isolated or in solitary confinement." The research showing the negative effects of solitary confinement is overwhelming. I know the experts behind me today will be offering you more research and data during their testimonies. Knowing what best practices show, we should all then be asking the question: How is Nebraska measuring up? According to the Inspector General's report, Nebraska juvenile facilities reported a total of 2,383--2,383--incidents of juvenile room confinement during fiscal year '16-17. What is even more alarming about this figure is that it is almost certainly an underreporting of numbers as no enforcement mechanism for reporting currently exists and some facilities chose not to cooperate with the Inspector General's request for information. I introduced another bill last session, LB516, to create that enforcement mechanism, but what we already know is that more...is more than enough to understand that we have a serious problem. The report shows considerable issues in some of our state and county facilities, which is why my bill focuses on those institutions. The Nebraska Correctional Youth Facility in Omaha averaged nearly 11 days for confinements. Eight cases, including seven youths, lasted more than 30 days--30 days. Only three cases were concluded within 24 hours. The Youth Rehabilitation and Treatment Center in Geneva--YRTC--Geneva--used confinement at a rate of 2.84 times per 100 days for an average of nearly 23 hours; and the YRTC--Youth Rehabilitation and Treatment Center--in Kearney--YRTC-Kearney--used confinement at a rate of 2.32 times for 100 days for an average of 49 hours, 38 minutes. The Department of Health and Human Services' rules and regulations currently authorize the use of room confinement either for reasons of safety or security or as a disciplinary sanction if the

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

Judiciary Committee
January 24, 2018

youth has violated rules. The fiscal note you see on this bill demonstrates the extent of this problem within the Department of Health and Human Services. As a result of this fiscal note--over \$4 million--we should all be considerably more alarmed at this situation now than we were before. Most of the dollars in this fiscal note would go toward putting up a fence. Think about this for a few seconds: Solitary confinement must be so grossly overused in our YRTC's that HHS officials are suggesting it will require \$4 million worth of fences to rectify the problem at two facilities. I ask you to take a few minutes to reflect on the name "Youth Rehabilitation and Treatment Centers" and consider the irony and the tragedy of this situation. As noted by the Legislative Fiscal Office in the \$4 million fiscal note, "...it is difficult to determine that this is the only or most likely option available to the Agency at this time." This is clearly an example of trying to kill a bill with an unnecessary and outlandish fiscal note. There is nothing in this bill that should even remotely translate to putting up a fence. What it does translate to, however, is the admission that far too often kids are being placed in solitary because facility administrators and staff, of course, lose patience--I would, too--or because it is more convenient to put the child in room confinement. While these jobs are demanding and frustration is totally understandable, we must always act in the best interest of the child. Putting a child in isolation for extended periods because it is the way we have always done it is simply unacceptable. Protecting the safety of staff and other children can be implemented in Nebraska using the best practices that are being used across the nation at this point. We should be setting these kids up to succeed in life, not treating them in a way they return to our communities without hope and more angry. It is that loss of hope that leads kids directly into our criminal justice system when they become adults. This pathway is paved with particularly deep...this pathway is paved particularly deep for racial minorities. Youth of color account for 4 in 20 children but 11 in 20 children in Nebraska juvenile facilities are youth of color. It is not hard to see how this connects with the current overcrowding crisis in our adult prisons. So this is why I bring LB870 before you today, so that Nebraska can integrate best practices of solitary confinement to do better for our children. Limiting solitary confinement only when necessary to eliminate substantial and immediate risk of harm to self or others is something we should already be doing, and others have led the way on this necessary best practice. The use of solitary confinement for juveniles was banned two years ago in our federal prisons. Further, eight states have enacted legislation to limit or prohibit juvenile solitary confinement, including West Virginia, Colorado, and Maine, according to the National Conference of State Legislatures. I have one amendment to this bill which has been provided to you. AM1598 clarifies that the Youth Rehabilitation and Treatment Centers included in this bill are operated by the Office of Juvenile Services. It also adds the court or judge among those who must be notified of a juvenile's placement in confinement or transfer from a juvenile facility to another location. I have also had very productive conversations and discussions with several Lancaster County Commissioners yesterday about amending the bill to clarify a few points, including the term "continuously monitored" on page 5, line 20 and 21. They have pointed out that this may be interpreted as requiring things like video monitoring, which was not our intent. This interpretation led to some of the estimations included in the fiscal note. We can

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

Judiciary Committee
January 24, 2018

clarify that language...we can clarify that language to avoid those potential costs, not necessarily the fence. I am willing to work within this committee to address any concerns that will help us move toward my objective of protecting our children. And in closing, I would urge you to advance LB870 to General File to ensure humane treatment and better outcomes for our Nebraska children. And with that, I'd be glad to answer any questions you may have or refer them to the experts lined up behind me. [LB870]

SENATOR EBKE: Thank you, Senator Pansing Brooks. Any questions? Guess not. Okay, remind...thank you. Reminder of the on-deck chair, can I see a show of hands of about how many people are planning on testifying on this bill? Okay, it gives us a sense of how long to tell Senator Blood it'll...it might be. Okay, first proponent. [LB870]

JULIET SUMMERS: (Exhibits 10 and 11) Strongly in support of things today. Good afternoon, Chair Ebke and members of the Judiciary Committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s, here on behalf of Voices for Children in Nebraska supporting LB870. All youth in our juvenile justice system need to receive rehabilitative services for a second chance to succeed. Outmoded and inhumane practices like the use of extended solitary confinement mar children's opportunity for rehabilitation and recovery. We support this bill because it will ensure that youth in our state-run facilities do not experience the harmful effects of solitary confinement. Because I'm short on time, I'm going to skip through a little bit of the obvious information about the harms of solitary confinement, but basically, you know, the...what it comes down to is that the research really shows, as harmful as it can be for adults, the teenage brain is still under development, and so these psychological effects are magnified in teenagers, giving rise to anxiety, neurological issues, problems adjusting, increased likelihood of suicide, increased likelihood of recidivism. And so for these reasons, the UN actually prohibits juvenile solitary confinement, and the American Academy of Child and Adolescent Psychiatry opposes its use. So in 2016, the Legislature passed LB894, the juvenile justice package, and it set out reporting requirements for all of our facilities, as the senator noted in her introduction. She already went through some of the egregious lengths of time that our youth are staying in solitary confinement, so I won't repeat those, but I have them listed in my testimony for you. And I think it's important to note that these facilities have not just a practice of doing it, but the policies actually permit the use of extended solitary confinement well beyond the maximums recommended by the experts. This bill is our right next step to ensure that youth don't come out of our government-run facilities worse than they went in. By setting hard limits on how long youth can be isolated, it asks our publicly funded facilities to find other solutions. And to be clear, it doesn't prevent facilities from separating youth during sleeping hours when it's voluntary on the youth's behalf or when there's an immediate and urgent necessity for safety--maybe there's a fight breaking out. What it does, though, is require that the facility staff take steps to remediate that safety risk, apart from locking a child alone in a room, in order to be able to get the youth back into the general population. I want to make a comment about the fiscal note, which I've seen, and I think it is a

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

Judiciary Committee
January 24, 2018

really sad testament to how little faith our facilities have in their own rehabilitative ability. If youth entrusted to their care cannot be kept safe without either being locked alone in a room or having a fence built around them, then I think we need to take a hard look at the amount of money we continue to pour into those facilities. Other states and jurisdictions have taken positive steps to eliminate or reduce the use of solitary confinement, and Nebraska can too. Changing practice is not easy but it is the right thing to do from a moral and a practical perspective. As a humane society, we shouldn't tolerate it; and as a pragmatic one, we shouldn't think that by doing so the youth are going to come back any better. We know that Nebraska can do better. So with that, thank you for your time and thank the senator for her heart on these issues, and I'd be happy to answer any questions. [LB870]

SENATOR MORFELD: Thank you, Ms. Summers. Any questions for the...Senator Halloran. [LB870]

SENATOR HALLORAN: Thank you, Ms. Summers, for your testimony. Thank you, Cochair Morfeld. Have you worked in any rehabilitative facilities in the state of Nebraska? [LB870]

JULIET SUMMERS: I have not. [LB870]

SENATOR HALLORAN: So...okay. So you don't have hands-on experience in the process of attempting to rehabilitate these youth. [LB870]

JULIET SUMMERS: I have personal experience as an attorney representing these youth, so I do have some information stemming from personal experience about ways that work to interact positively with them and ways that don't. [LB870]

SENATOR HALLORAN: Okay. Can you give me some idea of what alternative sanctions would be? [LB870]

JULIET SUMMERS: I think...so you should have a letter in front of you, as well, Senator, from a facilities director in Mississippi where they've implemented some of this stuff. And I think it's...comes back to, you know, the way that teens interact, the way you can get teens invested in, you know, taking positive steps forward as opposed to being pulled back by their peers. So you have to start with a baseline of, you know, what your program is. Is it really pro-youth? Is it positive development? Do we have rewards and positive accountability measures as well as sanctions? Do we have a small enough staff that we can have positive relationships with youth and not just be security? And mental health, are we investing in mental health treatment and provision? So I think when I'm talking about the fiscal note, not being a facilities manager, what

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

Judiciary Committee
January 24, 2018

I see is the response is, in order to solve the problem of solitary confinement, we need money for a fence and we need money for fence monitors, security, but there's no request for additional mental health provision, for additional social workers to deal with the youth, or even to hire more staff to do the actual programming. [LB870]

SENATOR HALLORAN: Is there a significant flight risk for these youth? [LB870]

JULIET SUMMERS: I believe there are other testifiers who you'll hear from today who actually are at the facility, can give you the information about flight risk. What I'll say is I don't understand how solitary confinement solves that problem because they're going to come out eventually, so then when they come out of the four-walls-and-a-toilet room, you haven't really solved the flight risk problem, what was causing them to want to run in the first place. [LB870]

SENATOR HALLORAN: I understand, but just back to the cost of the fencing, I don't think anyone wants to build a fence to be punishing someone, but if there's a flight risk, there's a flight risk. If they take flight, then correctional officers are called in to attempt to recover them, right? [LB870]

JULIET SUMMERS: Sure. And I think that if the department were to in a general Appropriations bill ask for the funding to build this fence and make the case for why we need it just generally based on flight risk, I think that's one question, that's one thing. But to tie it specifically to solitary confinement and say that the only solution to keep kids out of solitary is we need this fence, sort of ignores the...to me, the reasons that the kids are going into solitary confinement in the first place, unless it's to punish them for being a flight risk. It doesn't respond to any treatment need they may have that's causing them to want to run away. [LB870]

SENATOR HALLORAN: But there's other reasons other than flight risk. I brought that up, but there's other reasons, I assume, than flight risk that might be solid reasons for not being quite ready to be in the general population. [LB870]

JULIET SUMMERS: Yes, absolutely, absolutely, and I...Senator, I believe that the bill accounts for it. So as I said, this doesn't stop a facility from...if there's an immediate and urgent safety risk, which could include flight risk if you're worried that youth is going to hurt themselves running away, you are allowed to segregate them from the general population, to have this cool-down period. But then what it says is you can't just keep them in there indefinitely with no plan to get out, or set a definite time period that says, well, as punishment you're in here for ten hours, period. [LB870]

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

Judiciary Committee
January 24, 2018

SENATOR HALLORAN: Okay. Thank you. [LB870]

JULIET SUMMERS: Thank you. [LB870]

SENATOR MORFELD: Any other questions for the testifier? Okay, seeing none, thank you, Ms. Summers. [LB870]

JULIET SUMMERS: Thank you for your time. [LB870]

SENATOR MORFELD: Next proponent testimony. Welcome. [LB870]

MEGAN SCHULTZ: (Exhibit 12) Hello. My name is Megan, M-e-g-a-n S-c-h-u-l-t-z, and...okay, I'm ready for this. Many 16-year-olds spend their birthdays with their family and friends. I spent my 16-year-old birthday trapped in solitary confinement. Rewind to just a few weeks earlier, I was living with my mom and my dad and my eight brothers and sisters. I loved cooking, I loved singing, I loved hanging out with my friends, and I had no idea what my life was about to change. In late February I had to go to court to review how I was doing on my juvenile probation for a drug offense. I tested positive for marijuana and I missed my curfew so my probation officer told me, told the judge I should be removed from my home. I had a panic attack. I could not breathe. I saw my parents and I just wanted to stand up and hug them and just run to them. The deputies in the courtroom grabbed me and held me down. The prosecutors charged me with attempted escape and I was...but I wasn't trying to escape. All I wanted was to be closer to my parents when I had no idea what was happening. I was having a panic attack. The judge ordered that I be locked up in a county jail for the night, 24 hours. I was just 15. Can you imagine waking up at home, expecting a normal day, and trying to fall asleep in a jail cell that night with no clothes and no one to talk to and not so much as a book? I couldn't until it happened to me. Because of marijuana and running late, I was away from everything I've known my entire life. I was then sent almost four hours away from my home to a young-adult detention center in Madison, Nebraska. Because of marijuana and running away, I was away from everything I had ever known and I was locked in a room waiting for my trial for the new charges. Prior to this experience, I didn't know what solitary confinement meant or what it was like to be in it. I had been in my home, I'd been in school, I was always around kids, I was always around my family. It's...being alone wasn't something that was something I got all the time, and being trapped in a cell for 24 hours with nothing? And I had asked for a book and they didn't even bring me that. All...and then when I got to Madison, what they did was they'd lock the kids up for a good portion of the day. We'd go to out...get out for lunch, we'd get out for a little bit--we got to watch TV--and then they'd lock us up for a few hours and then repeat. And about a month after going to Madison, the judge told me I was going to Geneva, the Youth Rehabilitation Center. I was...I just could not believe the judge's decision. I had heard Geneva was a place for

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Judiciary Committee
January 24, 2018

girls that did the worst crimes in the state and had lot...and that a lot of fights occurred there and that a lot of suicide attempts. How could that be the place for me? I had never been locked up a day in my life. I'd never been in trouble before this. I told the judge that I wanted to go home on house arrest. They took me to Geneva from the courtroom that day and I had never been so upset and scared in my life before. And the woman guard that was taking me actually, I think, felt bad for me because she bought me Wendy's. While I was at Geneva, I was in a constant state of depression. I had anxiety attacks and when I tried to get help for them, no one cared. While I was there, four girls attempted suicide, exactly four, and many others talked about it. [LB870]

SENATOR MORFELD: Ms. Schultz,... [LB870]

MEGAN SCHULTZ: Yes. [LB870]

SENATOR MORFELD: ...if you could just finish up. [LB870]

MEGAN SCHULTZ: Do I have a minute left or... [LB870]

SENATOR MORFELD: Nope, you had a minute left about a minute ago. [LB870]

MEGAN SCHULTZ: No, that's...okay. Okay, my (inaudible). [LB870]

SENATOR MORFELD: But we really do want to hear your story and we really appreciate hearing... [LB870]

MEGAN SCHULTZ: Okay. [LB870]

SENATOR MORFELD: ...from people that actually experienced it, so if you could just conclude. [LB870]

MEGAN SCHULTZ: Okay. Yeah. There was a lot of fights there and when girls got in fights they got locked up for days at a time and had to get put on these programs where they were separated from all of the other girls in the group for days, weeks. Until they finished that program, until they did what they were supposed to do, they were just separated from everyone. And I got to see a lot of that and I'd see how it affected those girls and they didn't want to...it didn't make them want to stay out of trouble. It just kind of made them mad, so. [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR MORFELD: Thank you, Ms. Schultz, for coming today, really do appreciate it. Do you have any...is there any questions? Senator Krist. [LB870]

SENATOR KRIST: How recent is your experience? When were you released? [LB870]

MEGAN SCHULTZ: Sorry, (inaudible). I actually just got out... [LB870]

_____: August. [LB870]

MEGAN SCHULTZ: It was August? Yep, right before school started, they sent me home. [LB870]

SENATOR KRIST: So this was just last year. [LB870]

MEGAN SCHULTZ: Um-hum. [LB870]

SENATOR KRIST: And how long were you at Geneva? [LB870]

MEGAN SCHULTZ: I was there for five months, which is actually one of the least stays, like that's like record time for getting out of Geneva since their average stays are six to nine months. [LB870]

SENATOR KRIST: Okay. Thank you very much. Thanks for coming. [LB870]

MEGAN SCHULTZ: Thank you. Anyone? [LB870]

SENATOR MORFELD: Any other questions for Ms. Schultz? Thank you very much. [LB870]

MEGAN SCHULTZ: Thank you. [LB870]

SENATOR MORFELD: Okay, next testifier, proponent testimony. Welcome. [LB870]

HEIDI SCHULTZ: (Exhibit 13) My name is Heidi Schultz, H-e-i-d-i S-c-h-u-l-t-z. My daughter is Megan Schultz. She got in a bit of trouble. Nothing violent or malicious--she tested positive for marijuana. Her probation officer, Katie Groves, who was supposed to be working with us to help her, never spoke to us once, despite the fact that we called her at least twice a week. She

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Transcriber's Office

Judiciary Committee
January 24, 2018

went to her drug therapy once a week and we kept a close eye on her. She did things like tie-dye shirts with her little sisters and brothers, paint her little sister's fingernails. She mostly got good grades in school and she had good friends. On February 22, 2017, all of that changed. We were told at her court date that she would be sent to a group home. The probation officer lied and said she had exhausted all efforts with Megan. Having never spent more than a night away from her family, she was frightened and she started to hyperventilate. She was in the middle of a full-blown panic attack and I was trying to comfort her when I was told to leave the courtroom--no, forced to leave. I was told we could say goodbye to her when she calmed down. I heard screams from the courtroom and heard, "I just want to see my mom." I wanted to comfort her. We were then told to leave the courthouse, to leave the property. A police officer escorted us off, threatening to arrest us, especially me, and I was holding my two-year-old son. They arrested the young man that was with us for obstruction of justice but he did nothing wrong. Megan was beaten, choked, and thrown into a jail cell with nothing but a thin, sheer blanket to cover herself with. Prisoners passing by, as well as workers, heard pleas to see her mother going unheard. She was then sent to JDC, Madison, Nebraska, the next day. The Judge Kent Turnbull said that she was to be there for no more than a few weeks for evaluation. There were no available people to do this, nor were any called. Judge Turnbull lied. I can't imagine what she was feeling, the horror, this poor, frightened, 120-pound child being treated like a dangerous criminal. It's something out of a nightmare. We talked on the phone for the next week or so and we planned to see her on her birthday. Her "Sweet 16" was on March 5. Everything was arranged, then they told us we were to have no contact with her by order of the County Attorney Rebecca Harling. I was extremely upset. The only thing keeping my poor daughter and myself together was the short conversations we were allowed. I had spent every birthday with her since she was born and yet I was not even allowed to wish her a simple happy birthday, even though I knew it would not be a happy one. I cried the entire day of her birthday. She spent all of her time there in solitary confinement, no therapist, counselor, or doctor to check her bruises. She was only allowed to leave the room to eat. I got ahold of the ACLU after making call after call for someone to help us. They got us privileges back to talk to her on the phone, then we were allowed to visit. It was a five-hour drive to get to see her and we got to stay for two hours then drive back--lots of fun with small children. Later, Judge Turnbull lied yet again and said he made the no-contact order but no reason was given and the documentation said the county attorney made the order. He also said he was not biased about her as we tried to get a different judge to see her case and he heard what happened in the courtroom but denied it, saying he turned his radio up. She was brought back to North Platte after a month in JDC, most of that time spent in solitary. She was then sent to YRTC-Geneva, then...though the law says that it was last place to go, she should have been sent to the group home in Kearney, which would have been much closer for us to visit. May I continue? [LB870]

SENATOR MORFELD: Yeah, Ms. Schultz, if you can just finish your last paragraph, we'd really appreciate it. Thank you. [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

HEIDI SCHULTZ: Okay. Let's see. She was in solitary confinement again, made fun of, treated badly. She broke her foot. The x-rays were viewed and it didn't heal correctly. Staff made fun of her, calling her "poor baby." She gained 30 pounds. They controlled the kids with food and there should have been a different way of doing that, saying, like, maybe off-campus visits or something. When she did get home, in August of 2017, she's changed, she's bitter, she's distant, she's sad, she's never home. I don't get to see her. She was stolen from me, forced to grow up too quickly without her family, and she was deeply traumatized by the experiences in the system, and major part of that trauma came from the overuse of solitary confinement. As a mother of ten children, I have seen many different personality types, and I want to stress the importance of positive social interaction for children and teens alike. [LB870]

SENATOR MORFELD: Thank you, Ms. Schultz. And just so everybody knows, we know three minutes isn't a lot of time and it's not because we don't want to hear from you. It's just we want to make sure everybody has the opportunity to have a...to talk to us and share their experiences, and we have about six or seven other bills. So, Ms. Schultz, any questions for Ms. Schultz? Thank you so much for coming down and sharing your experience. Thank you. Next proponent testimony. Welcome. [LB870]

CHRISTINE HENNINGSEN: (Exhibit 14) Thank you. Good afternoon. My name is Christine Henningsen, C-h-r-i-s-t-i-n-e H-e-n-n-i-n-g-s-e-n, and I direct a project called Nebraska Youth Advocates, which is housed at UNL's Center on Children, Families, and the Law. We provide training for juvenile defense attorneys and promote best practices in juvenile justice policies and procedures. I'm also a juvenile defense attorney and had the pleasure of representing Ms. Megan Schultz, who you heard from earlier today, in a habeas corpus petition that we had filed on her behalf when she was improperly committed to the YRTC-Geneva. I am extremely proud of her testimony today. This bill is an important step in eliminating the harmful practice of juvenile room confinement in Nebraska. As is noted in the Office of Inspector General of Child Welfare report on juvenile room confinement, research is in agreement that there can be harmful effects when children are involuntarily placed alone. This includes harmful effects on both the child and the community as it has been linked to an increased risk to reoffend. This is why states such as Ohio, Massachusetts, and Oregon have dramatically cut their use of solitary confinement and, instead, adopted more effective ways to hold the youth accountable while still maintaining order. Approaches include changing the culture of the facility and providing training for staff on interventions that help teach kids how to respond differently in the future, rather than a response to simply put a child alone in a room. All the facilities affected by this bill have participated in data collection as required by statute. They've been on notice since 2016 that as a state we need to take steps to reduce the use of seclusion with children. Additionally, the Inspector General's report notes that all of the facilities have started to take steps to reduce the use of room confinement. The Nebraska Correctional Youth Facility notes modification to restrictive housing to provide more opportunities and more individualized behavior plans. The YRTCs are

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Transcriber's Office

Judiciary Committee
January 24, 2018

participating in technical assistance from the Council of Juvenile Correctional Administrators and making changes to their facility practices, culture, and policies. The detention facility administrators all indicated that the passage of the reporting requirements significantly changed and reduced their use of this practice over the past year. This simply codifies best practices as they continue their work to reduce room confinement and develop alternatives. I want to note quickly the important component of this bill which is notice to the child's attorney of the room confinement. As a defense attorney over five years in the public defender's office, I'm sure I had many clients who were placed in room confinement that I just simply was not aware of and didn't have notice of and I regret the fact that I was not able to advocate for their release from this harmful practice. I'd be happy to answer any questions that the committee may have. [LB870]

SENATOR MORFELD: Thank you, Ms. Henningsen. Any questions? Senator Krist. [LB870]

SENATOR KRIST: We've had these discussions and been assured that the system was getting better, there was less confinement, we were making efforts to move in the right direction. Is that your opinion or are we simply sitting in idle with our Big-Block Chevy again going nowhere? [LB870]

CHRISTINE HENNINGSEN: I think making changes to our statutes and codifying these best practices are substantial steps towards making those changes. As we see, there are examples where these are not being followed as anticipated by the Legislature, which is why it is so important that we have this accountability and transparency, and notice for and adequate representation for youth who are involved in our system so they have an advocate when your system actors are not acting in the best interest of our children as far as this Legislature has put forth. [LB870]

SENATOR KRIST: Thank you. [LB870]

SENATOR MORFELD: Any other questions? Seeing none, thank you for coming today. [LB870]

CHRISTINE HENNINGSEN: Thank you. [LB870]

SENATOR MORFELD: Next proponent testifier. Welcome. [LB870]

DYLAN MURPHY: (Exhibit 15) Thank you. My name is Dylan Murphy, D-y-l-a-n M-u-r-p-h-y. I am currently 32 years old. When I was 14 years old, I began experiencing severe depression and anxiety which led to struggles with self-harm and suicide ideation. Eventually I was

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Transcriber's Office

Judiciary Committee
January 24, 2018

admitted to a local psychiatric facility. My first night there, I was asked to sign a document that I did not fully understand. When I refused, I was placed in what was known as the quiet room. This was the facility's term for their solitary confinement room. The room was small and lacked a bathroom or any stimuli. I was granted a bare mattress to sleep on, as it had been predetermined that I would spend at least the entire overnight in the quiet room. I was in isolation for around 10-12 hours. Throughout future acute hospitalizations and a six-month stay in the facility's residential program, I was placed in solitary on multiple occasions for usually 8-14 hours at a time and for reasons I now question as an adult. For example, I was once sent to the quiet room because I told my mom on a phone call that I wanted to come home. Staff said that I was, quote, negative attention seeking. Another time I was told I had to surrender some of my photos when staff learned that I was in a same-gender relationship. Since other youth in the facility were allowed photos of their significant others, I questioned whether their decision was discriminatory. I was subsequently sent to the quiet room for 12 hours. Through my bachelor's of social work program, I have come to understand that my experiences in solitary confinement, to be both transparent and realistic, traumatized me. I have learned that neurons that fire together wire together. When someone experiences something repeatedly, it embeds in their brain as the norm. Being abandoned in a locked room over and over embedded feelings of fear and being unwanted in my brain, which I still deal with to this day. I have spent much of my life since being hyperaware of my surroundings, including always knowing where the closest exit is, and closed spaces, even my own, at times are still triggering. I have struggled to learn to be able to trust others, something that has had deep negative impacts on my development. Solitary confinement did not protect me or keep me safe. It only did further damage. I was, in fact, still able to self-harm on multiple occasions while in the quiet room. The purpose of that small locked room then was lost on me. Apart from telling me that I was undeserving of human interaction, it taught me that I had no control and that I had no worth, issues I admittedly still struggle with today. At 14 years of age, solitary taught me that I was an inconvenience, unworthy of help, and that if I was not around I could not be a bother. I know how hard I have had to work and continue to work as an adult to heal the wounds that solitary inflicted upon me. My hope is that other youth are compassionately spared from this. I strongly urge you to act in the best interest of youth in Nebraska facilities and end sanctioned detriment to current and future youth. Thank you for your time. [LB870]

SENATOR MORFELD: Thank you, Mr. Murphy. Any questions for the testifier? Thank you for coming and testifying and sharing your story today. Next proponent testimony. [LB870]

DIANE MARTI: (Exhibit 16) Chairperson Ebke, members of the Judiciary Committee, my name is Dr. Diane Marti, and I...oh, D-i-a-n-e M-a-r-t-i. I'm here representing Nebraska Psychological Association, which I am president-elect of this association of psychologists. I'm here to talk about this bill and how important it is, and I don't want to spend time on the research because I think it's clear. I have it in my testimony. I wanted to bring more clinical, as well as a personal

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Transcriber's Office

Judiciary Committee
January 24, 2018

piece to this. I think it's also clear how damaging being in isolation can be and we've heard that today, especially from somebody who has experienced it and is still experiencing it years later. It is my story, as well. My oldest son, who is 35 now, was in trouble, 14 years old, and he did the isolation piece and it was actually due to understaffing. So with that, years later, my gifted son, who aspired to be a lawyer, his pathway changed after that time. He was in three weeks, I believe is what it was, due to, like I said, staffing. So I've seen the personal effects of it and I study the personal effects of trauma and I treat individuals who I'm trying to get past this. So the second part of this bill that I think is amazing that this bill is 20 years too late, the way I see it, it's the monitoring of the use of isolation. There's no doubt that we need something to help keep individuals safe when they are out of control. But to have someone in extended time...I'm working with autism. This is hard to diagnose. I have individuals who I have had in isolation up to--God, I have to say this--four years that they've been on some level of restricted isolation, and that's due to the fact that is an undiagnosed mental health condition. No one could make this person understand and he was...he really struggled within the system. From what I'm seeing with this bill, this will help us identify somebody like this where we'd say, why is he continuing to go back to isolation? And then at that point we do assessment, we do treatment, we isolate these individuals, and we help. We help these individuals to make...be able to be supportive so that this...and, you know, this is a lot of trauma. It is affecting a lot of people. So I really am happy that LB870 is here and I'm hoping Nebraska can be one of the states that provide an ethical treatment to our minors. [LB870]

SENATOR MORFELD: Thank you for your testimony, Doctor. Any questions for the testifier? Thank you. [LB870]

DIANE MARTI: You're welcome. [LB870]

SENATOR MORFELD: Next proponent testimony. Welcome. [LB870]

JULIE WERTHEIMER: (Exhibit 17) Good afternoon. My name is Julie Wertheimer, J-u-l-i-e W-e-r-t-h-e-i-m-e-r. I'm a graduate student in the psychology and law program at the University of Nebraska-Lincoln, and I was hired by the ACLU to code and analyze data regarding Nebraska's use of juvenile solitary confinement. I will speak about the methodology of the analysis and afterward my supervisor, Dr. Wiener, will testify about the results. First, I need to note that each data point in our analysis represents an incident in which solitary confinement was used, rather than an individual youth who was confined. This is because it was impossible to determine from the way the data was reported whether each incident involved a different juvenile or whether some juveniles were confined multiple times. Two thousand, seven hundred and twenty-four incidents of juvenile solitary confinement were reported in Nebraska between July 2016 and September 2017. Eleven facilities reported four or fewer incidences of solitary confinement and

were not included in my analysis. The analyzed data came from the reports from the seven remaining facilities who reported regular use of juvenile solitary confinement. The staff at the institutions entered all the data in the reports that we then received from the ACLU. The facilities and the number of incidents reported from each are shown in Figure 1 of your handout. Before we could analyze the data, we coded common variables in the submitted reports, the major variables in the data set I listed in Table 1. I then used our statistical analysis software, SPSS, to construct a file containing those common variables. To minimize errors, as I was coding, I gave each incident a unique ID number so I could easily match each line of data from the report to the correct line in the SPSS file. Where possible, I copied and pasted lines directly from the data file into the SPSS file so as to reduce transcription errors. When I was done entering data, we checked for possible errors by calculating descriptive statistics--so means, medians, modes, maximum, and minimum values--for all variables and then examined them for unusual values. Any observation that appeared unusual--so, for example, durations of confinement that seemed extremely high--were double checked. This process uncovered only a few minor errors which were corrected against the original data files. The age, gender, and race and ethnicity of youth in confinement are reported in Figures 2, 3, and 4, respectively, in your handout. At the time of confinement, juveniles were aged 11-19 with the average age of a juvenile in solitary being about 16 years old. The majority of confined youth were male, though nearly 28 percent were female, and confined youth were mostly Latinx, white, and black. The purpose of our analysis was to calculate how many incidents of solitary confinement there were, who was confined, and how long they were confined. We used these data to answer those questions, and Dr. Wiener will present the results afterward. Thank you. [LB870]

SENATOR MORFELD: Thank you, Ms. Wertheimer. Any questions for the testifier? Senator Krist. [LB870]

SENATOR KRIST: YRTC-Kearney is male; YRTC Geneva is female. Do you have the statistics broken down on our other columns in terms of male/female? [LB870]

JULIE WERTHEIMER: No, we have...so we have the...Figure 3 is the total gender of the youth in confinement, which has the like number and percentage of males that were confined versus females, but we haven't broken it down by gender within institution. [LB870]

SENATOR KRIST: So your conclusion, is it that...in terms of YRTC-Kearney and Geneva, it's pretty obvious that males are confined more than females. Is that a good conclusion? [LB870]

JULIE WERTHEIMER: Well, yes, there were more incidents of males being confined overall in Nebraska than females, and there were more, since Kearney is a male facility and Geneva is a

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Transcriber's Office

Judiciary Committee
January 24, 2018

female facility, there were more incidents of males being confined in Kearney than there were incidents of females being confined in Geneva. [LB870]

SENATOR KRIST: So that's an obvious...even to a layman, that that (inaudible). [LB870]

JULIE WERTHEIMER: Yes. [LB870]

SENATOR KRIST: I guess what I'm getting to on the others is, are we looking at facilities across the state that are...that support your statistical analysis or is there an anomaly just in terms of those two gender-specific facilities? So if I looked at Douglas County youth facility in my backyard, are they treating males and females the same way as we see this data projecting for Geneva and for Kearney? [LB870]

JULIE WERTHEIMER: So I don't believe I have those analyses. [LB870]

SENATOR KRIST: Okay. [LB870]

JULIE WERTHEIMER: Dr. Wiener might. I can't remember if we get those. [LB870]

SENATOR KRIST: I'll just save my question for him. [LB870]

JULIE WERTHEIMER: You might have to save your question for him. But we did...overall, really, the analyses we did, we looked at, we combined all of the incidents into one data pool and looked at the ratio of males to female incidents through that, so we don't have the specific breakdown within each incident, within each facility by gender, except for the ones that are the entire facility is male versus the entire facility is female. [LB870]

SENATOR KRIST: Thank you. And then just one comment,... [LB870]

JULIE WERTHEIMER: Yeah. [LB870]

SENATOR KRIST: ...two...one degree was not enough. Two degrees is where you're at and I applaud you for your efforts and obviously... [LB870]

JULIE WERTHEIMER: Thank you. [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR KRIST: ...the work that you've done, so thank you very much. [LB870]

SENATOR MORFELD: Any other questions for the testifier? Seeing none, thank you. Next proponent testimony. Welcome. [LB870]

RICHARD WIENER: (Exhibit 18) Thank you. My name is Dr. Richard Wiener, R-i-c-h-a-r-d W-i-e-n-e-r. I'm a faculty member in the law and psychology program with University of Nebraska-Lincoln. The data that the UNL team collated, which Ms. Wertheimer entered into a statistical database, produced several important analyses and findings. The first analysis was a calculation of the percent of white European, non-Latinx, African American, and Latinx youth in 2016, as estimated from the 2010 national census, and then compared that to the racial and ethnic breakdown of the youth in solitary confinement in 2016 and 2017. That figure was in Figure 1 in the handout that I just presented to you on the end. Figure 1 at the end of your handout shows that while approximately 80 percent of the youth in Nebraska are white, only 33 percent of those in solitary confinement were white. However, while only 5 percent of Nebraska youth are black and no more than 12 percent are Latinx, the percent of solitary confinement incidents were about 33 percent white, 20 percent black, and 35 percent Latinx. This means that black and Latinx youth were seriously overrepresented in solitary confinement. The second analysis examined the duration of time spent in solitary confinement. Table 2 shows the mean number of hours per incident was approximately one day and 18 hours--almost two full days--but ranged as high in our data set as 27 days. The next analysis broke down the number of hours of each incident of solitary confinement by the race and ethnicity of the youths in confinement. That's Figure 4. It shows a wide variation in time spent in confinement for an average incident ranging from a high of about 48 hours for Latinx youth to a low of about 19 hours for multiracial youth. The white youth spent an average of 40 hours in confinement for the typical incident. African American youth spent well more time in confinement than did white youth but not as long as the Latinx youth. Figure 5 in the handout lists the 12 most common reasons that the staff offered for placing the youth in solitary confinement. The most justifiable reason to place a youth in confinement for a very short state, no more than one hour perhaps, is that the youth was physically out of control. According to the reasons that the staff provided in that figure, in Figure 5, only 31.2 percent--not quite a third of the incidents--was attributable to a physically out-of-control youth. Think that's significant to look at that figure and understand it. In conclusion, these data point out the need to regulate and control the frequency and duration of solitary confinement for youth in the Nebraska juvenile justice system. The data show that current practices overrepresent/disadvantage black and Latinx youth both in terms of how often they wind up in solitary confinement and how long they stay. There are wide variations in the use of confinement across Nebraska's institutions with some youth spending as long as 27 days in solitary confinement. It's a very long time to be there. Perhaps most importantly, only a minority of staff put children in solitary confinement because they were physically out of control. These results support restricting the use of solitary confinement for youth in Nebraska to no more than

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Transcriber's Office

Judiciary Committee
January 24, 2018

a short--perhaps one-hour--period and only when there are no other reasonable, less restrictive means possible. [LB870]

SENATOR MORFELD: Thank you, Doctor. Any questions for the testifier? Senator Krist. [LB870]

SENATOR KRIST: You heard my question before. [LB870]

RICHARD WIENER: Yeah, I wish I had the answer for you. We actually broke the data down separately by gender and then separately by YRTC's, but it's very easy for us to obtain that data and would be happy to send it to you later on in an e-mail. We just didn't break it down that way, but that is available to us. The report that we submitted is a basic report of looking at those statistics. We didn't go into great depth. But if you have other questions and would like us to look at that data in a different way, I would be more than happy to do those analyses. [LB870]

SENATOR KRIST: Because we all represent districts and because I'm interested in how we're treating kids across all geographic areas so we don't have justice by geography, my question specifically, I think more importantly, my intent of the question is, are the people at Douglas County doing things the same as we are seeing statistically in those two gender-specific institutions? So if you could extrapolate that from the data and get back to us, I'd appreciate it. [LB870]

RICHARD WIENER: I will do that. I'll also point out Figure 6, which I didn't talk about. It's the very end of the handout. Figure 6 breaks down by institution--YRTC-Kearney, Geneva, Lancaster County, and so forth--of all the institutions that we had data for. That breaks down the number of individuals that were in solitary confinement. That's the sample size, the "N," and then above it the "bolded" number is the average amount of time each incident took. So for example, for YRTC-Kearney, each incident was, on the average, 46 hours. And if you look way over on the right side, Nebraska Correctional Youth Facility in Douglas County, which is largely a facility that houses youth that are tried as adults, the average time in confinement there is 232 hours. [LB870]

SENATOR KRIST: Wow. [LB870]

RICHARD WIENER: That's a lot of time. [LB870]

SENATOR KRIST: Yes, sir. Thank you much. Thank you, Doctor. [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR MORFELD: Senator Halloran. [LB870]

SENATOR HALLORAN: Thank you, Cochair Morfeld. Thank you for your testimony. On page 7, Analysis IV, I'm not sure why they're broken down into so many categories, but you have...maybe asking you the question, what's the difference between physically assaulting staff? I understand it's who it's targeted at or fighting or assault,... [LB870]

RICHARD WIENER: Yeah, so let me... [LB870]

SENATOR HALLORAN: ...physically assaulting another youth. It's an assault issue, right? [LB870]

RICHARD WIENER: You could combine them. This is the way that the data came back reported to us from the institutions. [LB870]

SENATOR HALLORAN: Right. [LB870]

RICHARD WIENER: So in fact, the color coding that I did was my attempt to try to categorize it in categories that made sense, that held together. [LB870]

SENATOR HALLORAN: Right. [LB870]

RICHARD WIENER: And so from that figure the only categories truly that one could be justified for holding a youth in confinement for are the ones in red. The ones in blue, like, for example, "Behavioral infraction or Rule Violation" or "Administrative Other," is really not a justifiable reason for holding a child in solitary confinement, particularly when it lasts over several hours and multiple days. But the items, the columns in red on that chart, are the ones that really reflect youth that's violent or potentially violent or could infect, was involved in assault. [LB870]

SENATOR HALLORAN: So basically your focus, your expertise is a statistician. [LB870]

RICHARD WIENER: Well, I'm a research psychologist,... [LB870]

SENATOR HALLORAN: Okay. Okay. [LB870]

RICHARD WIENER: ...so I study criminal justice issues as well as statistics. [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR HALLORAN: I'll ask you the same question I asked a previous witness, and you probably have, being the youngster that you are. Have you ever been employed in a rehabilitative facility such as we're talking about in these stats? [LB870]

RICHARD WIENER: I have, I have. I haven't for many years. Many years ago, I worked in...let's see, where was it? I guess it was in Missouri. I worked at an institution that was, in fact, working with children that were so inclined and at that time there was a rule that when children were physically out of control, one of the things that we didn't like to do but that we would occasionally do was put them in those sorts of lock-up...we called it lock-up solitary confinement in a clinic that we kept them there until they, in fact, gained control. I've always been uneasy with it. I wish to goodness I had not been involved in it when I did it. I found it to be a very aversive and not very useful procedure. For example, what I found was that when we took children and put them into those sorts of environments in those conditions, they got very angry, they got very hostile. When they got out, they typically ran. They were revengeful and they did everything they could when they got out of those situations to show to us, the staff, that, in fact, they had been mistreated. I've never seen this procedure work in such a way that it enables a youth to quietly, physically calm down and be more amenable to rehabilitative techniques. And as my colleague, the clinical psychologist--I forgot her name, excuse me--had testified earlier, there are multiple ways that we as a science of psychology and we as social service providers can actually work with children besides this alternative of putting them, as a last resort, into confinement. There's much...many ways that one wants to engage in with children before you get to that point... [LB870]

SENATOR HALLORAN: Sure (inaudible). [LB870]

RICHARD WIENER: ...that you actually have to put them in confinement. [LB870]

SENATOR HALLORAN: Some of it is their own protection but some of it is also the protection of the general population, right? [LB870]

RICHARD WIENER: Absolutely. And there aren't...there should be...I mean, don't misinterpret me, I firmly believe that the role of these institutions has to be to protect some of the people in the general population. But putting children, children that are under the...under ages of sometimes 10 or 11 or 12 years old into a solitary room for a period of up to 27 days is not really going to protect anybody. What it's really going to do in the long run is it's going to make that child more revengeful, more hateful, and more likely to come out and commit further acts of aggression. [LB870]

SENATOR HALLORAN: Okay, thank you. [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR MORFELD: Any other questions for the testifier? Seeing none, thank you, Doctor. Next proponent testifier. Welcome. [LB870]

KRISTA CARLSON: (Exhibit 20) Welcome. Good afternoon. My name is Krista Carlson, K-r-i-s-t-a C-a-r-l-s-o-n. I'm a practicing attorney here in Lincoln, Nebraska. My testimony here today echoes that that you've heard earlier from those who are in solitary confinement. Ten days after I turned 14, I became pregnant with my 23-year-old boyfriend's child. He drove me around on the country roads till I was lost, kicked me out of the vehicle, and said, hitchhike to California. He was convicted of statutory rape. I was sent to Pinehaven Christian Children's Ranch where I couldn't quit crying. I had been abandoned by my parents and my boyfriend and I was pregnant. And for the offense of crying I was sent to solitary confinement on a porch for six weeks, locked on the porch, alarms on the windows, given peanut butter on bread and milk and not allowed any human contact for six weeks. And I will tell you, when you're there, alone, given nothing to read, given nothing to do and no one to talk to, you think about suicide a lot. That was the only thing I did think about--suicide or escape--for six weeks. And even when I got out, we weren't allowed to have contact with the outside world, no newspapers, no TV. I didn't know about the Oklahoma City bombing until I came home. When I came home, I was very distrustful of other individuals, very angry. It destroyed my relationship with my parents. My dad died in May and I was able to forgive him. We came to terms shortly before that. My mom and I don't speak today--very, very distrustful. Even now, 23 years later, I have nightmares of being in there, I...not as frequent now, but I'll still wake up, you know, in a cold sweat from a nightmare that I'm being sent back to Pinehaven, even as an adult. And I would say I'm one of those that have recovered the most that can be expected. I'm a practicing attorney. I have a successful law practice. I have a family. I have children. I've gone on, but this is the kind of thing that we still live with, years and years, decades later, after being in solitary confinement like that. It changes your brain in a way. It makes you fearful, distrustful, angry. There's no way to completely recover from that. You know, I've done my best. I've come a long way. But those memories and that situation and that condition, it will always persist. So I want you to know that's a long-term problem. It's not like these kids get out and they're going to be better. Any questions? [LB870]

SENATOR MORFELD: Any questions for the testifier? Thank you... [LB870]

KRISTA CARLSON: Thank you. [LB870]

SENATOR MORFELD: ...very much for coming today and sharing your experience. Next proponent testimony. [LB870]

KORBY GILBERTSON: (Exhibit 21) Senator Morfeld, members of the committee, for the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today

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

Judiciary Committee
January 24, 2018

as registered lobbyist on behalf of the Nebraska Psychiatric Society. And I'm having handed out to you a letter from Dr. Beth Ann Brooks, who is the legislative chair of the Psychiatric Society but also is on the Nebraska Regional Council of the American Academy of Child and Adolescent Psychiatry, which is the group that Senator Pansing Brooks talked about a little bit in her opening and the studies that they did over a decade ago on this subject. In the letter there is a link to their site and to those studies for your information. In light of your time, I will let you read the letter and know that the Psychiatric Society is in support of this legislation. And I'd also, before I forget, like to thank Senators Morfeld and Krist for signing on the legislation, as well, and Senator Ebke--you came back. [LB870]

SENATOR EBKE: I'm here. [LB870]

KORBY GILBERTSON: Thank you. [LB870]

SENATOR EBKE: Yep. Any other questions? Thanks. [LB870]

KORBY GILBERTSON: All right. Thank you. [LB870]

SENATOR EBKE: More proponents? Are there any opponents? Don't forget the on-deck chair. [LB870]

RALPH HEALEY: I'm Ralph Healey from the...I work in one of these Rehabilitation and Treatment Centers, the one in Kearney. Ralph Healey is R-a-l-p-h H-e-a-l-e-y. And I guess my concern with this bill is not necessarily the way the bill is worded or even the idea that we're going to eliminate solitary confinement, because I'm not against that. The research is pretty clear. What we are concerned about is currently in Nebraska if youth gets in trouble, they go through community services first and they're supposed to come to us when everything else has failed. And everything else has failed because we're dealing with some incredibly difficult youth. We have staff that are being hospitalized by our youth, escapes, stolen cars, destroyed property, and it's pretty difficult to deal with some of our youth. A lot of the other states that have passed this bill have had frameworks in place before they have passed this law that has helped their staff when their staff are being injured severely. If we...we just had a staff severely injured and that kid's only 16. He's not going to get any justice. That youth isn't going to be charged, because Buffalo County won't charge them. There is no consequences for this youth. If youth assault youth, there's no consequence because they will not be charged for that, no matter what, even if it's a big kid beating up a little kid, because they won't press any of those charges because they know they're just going to be recommitted to YRTC because everything else has already been exhausted. So we have no support right now and unless this bill is updated with a set of framework around it to help protect our staff, this bill is going to cause the YRTCs a lot of

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

Judiciary Committee
January 24, 2018

trouble because we have youth that will attack our staff for no reason. I mean, it's like, all right, today I'm in a good mood, you're getting hit today. And although some of this, the solitary confinement, may be a part of that--and I agree with it completely, it probably is--until we manage to get the framework to help us deal with the youth that are the 10 percent of our population that's causing 90 percent of our incidents in our facility, the youth in our facility and the staff at our facility are not going to be safe because we don't have the framework to help us take those kids away from the other ones that are being hurt. Right now the solitary confinement is being used for that purpose. Our numbers have gone down drastically, I'm...drastically. Years ago we had many more people. And the community services are working because our population just a few years ago was 250 and we're down in the 90s. But until we have options for us, I feel this bill would be very dangerous for the final option for our juveniles in the state. [LB870]

SENATOR EBKE: Thank you. Questions? Okay, thank you. Next opponent. [LB870]

BRITTNEY SANER: Hello. I'm Brittney Saner. I also am an employee at YRTC and I have lived in Kearney a long time, B-r-i-t-t-n-e-y S-a-n-e-r. I just want to echo what Mr. Healey also said. I have been on that front lines. I have worked up and I have seen the down sides of confinement, as well. With our population that we currently have at YRTC, it will be very, very dangerous if we don't have the framework set to do. What else are we going to do when that assault comes? When you have a kid that's assaulted staff, assaulted another kid, three hours max, you, yourself, is not calmed down at that point. They're going to go back and they're going to do the exact same thing again to somebody else. We don't have a fence. We don't want a fence. We don't have that kind of facility. We want to be a rehabilitative facility, but there does come a time with the type of youth we have at this point, that that's about our only option sometimes to be safe for everybody involved. [LB870]

SENATOR EBKE: Questions? Senator Krist. [LB870]

SENATOR KRIST: What does the framework look like that enables you to handle this in a constructive way, as opposed to continuing to confine kids? [LB870]

BRITTNEY SANER: We have already been putting in procedures for the past year. Like Mr. Healey said, our confinement numbers have gone down. We have gotten more involved with our mental health staff. I am a case manager currently right now, so I have a group of kids that I work with on a day-to-day basis that I will, if I do have a youth that goes out into our security unit, our behavior restabilization unit, I will go out there twice a shift, once a shift, as much as I can, to say, okay, what can we do next? But they're not in the room the whole time. It's just to calm down, to relax, to get to a point where they can logically have a conversation about what the next step is. We have already put in some of those, but sometimes three hours is not enough.

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

Judiciary Committee
January 24, 2018

We will have youth that are still upset after that much time and then somebody else will get hurt and we're down three/four staff in one shift due to one youth. [LB870]

SENATOR KRIST: Okay. Thank you. [LB870]

SENATOR EBKE: Other questions? Okay, thank you. Next opponent. [LB870]

BRAD ALEXANDER: (Exhibit 22) Good afternoon, Senators. Chair Ebke, members of the Judiciary Committee, my name is Brad Alexander. I'm the superintendent of the Douglas County Youth Center. My last name is spelled A-l-e-x-a-n-d-e-r. I'd like to clarify one thing, Senator Krist,... [LB870]

SENATOR KRIST: Sure. [LB870]

BRAD ALEXANDER: ...before you start my clock. I've tried for two days to get this under five minutes and I haven't done it yet, so I'm going to do my best today. The numbers the gentleman from UNL had given you, I believe, were the numbers for the State Department of Corrections Youth Facility, not the Douglas County Youth Center. [LB870]

SENATOR KRIST: Okay. [LB870]

BRAD ALEXANDER: Okay. [LB870]

SENATOR KRIST: Good definition, thank you. [LB870]

BRAD ALEXANDER: With that, I'll begin. We are here in opposition to this bill. Our real hope, Senators, is that we can find some common ground and we can actually build something. So if this bill truly interests...or represents the best interests of all the youth that we serve, I'd like to first describe what it is that restrictive housing looks like at the Douglas County Youth Center. These young people are going to receive education, one hour of recreation each day, showers, hygiene, phone calls, mental health and/or supervisor visits at least twice a day. Staff are immediately available on the living units at all times for these youth; medical care; same meals and snacks as everyone else; reading material; religious programming; we offer yoga on the unit. The young people that are in their rooms still have an opportunity to participate in yoga. While in their rooms, the residents could communicate with their peers. They can see the television. The residents keep their bedrooms. We don't pick them...they don't move to some isolation or some dungeon. They just are placed in their bedrooms. Their surroundings remain quite similar. Over half of the residents that we serve have been kicked out of other programs and/or violated

probation, often for aggressive behavior. We serve all youth, do not ask that any of our residents be removed. Safety and order at the youth center is maintained in a variety of ways. A few of those are, again, we're a direct-supervision facility. We have staff working directly with the residents on all living units. The staff develops relationships of trust and respect with the young people. Unless this culture exists, there is little hope that youth will work to change their behavior. A behavior management system provides positive reinforcement and incentives for positive behavior. It is important to catch people doing something right and recognize that. We hold residents accountable for their actions. This is a life lesson that will serve them well going forward. There are consequences for your actions, both positive and negative. We have LMHPs and a psychologist that work with the residents, provide crisis management, and work with residents, with youth on coping skills to help them control their behavior. One of the first things we do when the youth arrive is we classify them, and we're trying to make sure that we're placing them with similarly situated youth. It goes towards their safety. The majority of the residents that are placed in restrictive housing change their behavior and never act out again. Being held accountable, setting goals, working with supervisors and staff that work on the living units and the LMHPs works. In fact, many of the residents that achieve the highest level of our behavior management system were, at one time, in restrictive housing. We have a number of instances when a resident is upset due to bad news at court, family did not show for a visit, cannot reach probation and/or an attorney, and they take this out on staff or maybe another resident. Often we can work through these issues quickly. They apologize to the victim and we resolve the problem with little or no room confinement at all. It's not our first impulse. We don't take it lightly. We take it very seriously. Less than 10 percent of our residents are violent and placed in room confinement. For the most part, the other 90 percent, we have little to no problem with. Unfortunately, many of these youth are victims of a small percentage of aggressive youth. These residents can be intimidated and scared of the other residents. If the aggressive youth comes out of their room within three hours of assaulting another youth, the result will be that the victim who was traumatized by the assault will voluntarily place themselves in room confinement by going to their room. I know this isn't the intent of this legislation, but the legislation will force victims into voluntary room confinement. I need to be done? [LB870]

SENATOR EBKE: Yeah. Senator Krist. [LB870]

SENATOR KRIST: Sometimes, in testimony, something sparks my interest. [LB870]

BRAD ALEXANDER: Yes, sir. [LB870]

SENATOR KRIST: And this testimony sparks my interest in a way that...are we defining confinement in your facility as simply going back to their bedroom, not going to the dungeon or the black hole? Is that what I heard? [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

BRAD ALEXANDER: I believe that if you were to ask people what solitary confinement is, I think that these images will pop up in their heads as some dungeon with a hole in the middle of the room or something like that--not at all the case where we're at. But I do believe that what we do at the youth center applies to this legislative bill because it refers to involuntary room confinement. Okay? [LB870]

SENATOR KRIST: So you're using their bedroom, their space... [LB870]

BRAD ALEXANDER: We don't...yes. Yes, sir. [LB870]

SENATOR KRIST: ...as the place where they... [LB870]

BRAD ALEXANDER: Yep. [LB870]

SENATOR KRIST: ...would go back and do,... [LB870]

BRAD ALEXANDER: Yeah. [LB870]

SENATOR KRIST: ...I know it's not popular, but time-out and some therapy, if that would be the case. So I think it's interesting and it's important for us to define apples and apples and oranges and apples... [LB870]

BRAD ALEXANDER: Yes. [LB870]

SENATOR KRIST: ...and where we're talking about. [LB870]

BRAD ALEXANDER: Yes. [LB870]

SENATOR KRIST: I've been in some of our other facilities and that is not what's happening in other facilities. So I appreciate your testimony and I do appreciate what you're doing with our kids, so thank you very much. [LB870]

BRAD ALEXANDER: Thank you, sir. [LB870]

SENATOR EBKE: Any other questions? Senator Halloran. [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR HALLORAN: Thank you, Cochair...or Chair Ebke--I'm sorry. You probably do this at your facilities, defining what would be the reasons for going back to their room, confined to their room, or releasing them from their room. [LB870]

BRAD ALEXANDER: Right. [LB870]

SENATOR HALLORAN: But that was...you know, questions to be answered in the materials here, it says the bill does not provide definitions or factors to consider in determining whether the child poses a risk of substantial and immediate harm. You have those questions that you ask yourselves before...? [LB870]

BRAD ALEXANDER: We do. I mean that was actually in my written testimony is, you know,... [LB870]

SENATOR HALLORAN: Okay. [LB870]

BRAD ALEXANDER: ...what is substantial and immediate. [LB870]

SENATOR HALLORAN: And the inverse of that is questions that you asked yourselves upon what would qualify to release them? [LB870]

BRAD ALEXANDER: Right. [LB870]

SENATOR HALLORAN: Right. But my point is it's not in the bill. Would that be something that we should be looking at to add? [LB870]

BRAD ALEXANDER: We, you know, we currently comply with, I think, most of all that's in this bill. I mean, as it sits now, our youth are removed from room confinement immediately once they are no longer a risk to others. Our concern is for that other 90 percent that are scared. [LB870]

SENATOR HALLORAN: Right. [LB870]

BRAD ALEXANDER: And then it flat-out is not right when you're a victim and then you're placing yourself into room confinement because you're concerned for your safety. [LB870]

SENATOR HALLORAN: Sure. Thank you. [LB870]

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

Judiciary Committee
January 24, 2018

SENATOR EBKE: Other questions? Thank you for being here today. [LB870]

BRAD ALEXANDER: Thank you. [LB870]

LAURA BUGAY: Hello. My name is Laura Bugay, L-a-u-r-a B-u-g-a-y. I work at the YRTC in Kearney. I'm a mental health provider, a supervisor. I've worked there a lot of years. I've worked in other facilities. I've done this for 30-some years. I have seen how seclusion/restraint has evolved over the years. I applaud that we still look at this issue and continue to demand that it be improved as far as time. When we have youth come in, these youth have exhausted all community supports and efforts. They come to us committed because they have not been able to reform in the communities. Their level of risk is high, seriously high. We work with these kids every day. If you look at statistics, 75-93 percent of these youth come in already having developed PTSD and other trauma-based issues. Kids in the juvenile justice system, we have a very high incidence of kids that come in who experience trauma, so they respond to things differently. They have learned their reactions and they have learned their behaviors and their coping skills and their decision-making and problem-solving skills based on their life experiences. So we have kids that cannot function out in the community because of their lack of prosocial skills, so they're sent to us for rehabilitation. And they don't come in with those skills. They don't suddenly acquire those skills once they get there. These are kids who don't trust any of us. They don't trust you out there and they don't trust us either. It takes a long time to develop a process of trust. They're not even going to listen to what we have to say until they believe what we have to say might be true and might benefit them. Good for them! But we have kids that are so dysregulated emotionally and physically because of their life experiences that they can't contain or control themselves. They're in a facility, in a situation where they're always together with other kids. They don't have individual time. There are kids that become dangerous and do have to be removed. But we have a lot of things in place and we work harder than the kids to get them out of confinement, if they're there, because they're a clear threat to somebody else. There are kids who deliberately do things to get themselves put in confinement so they have some time by themselves. A lot of kids cannot deescalate and process until they are in a situation or a setting where all that stimulation is reduced to where they can process and they can start working on a solution to the problem they're having. They can't process that until they've reached a state where they have the ability to be rational again. There are times we can do that and sometimes we're pretty good and we can do that in an hour. But these are kids who have lifelong experiences... [LB870]

SENATOR EBKE: Okay. [LB870]

LAURA BUGAY: ...and it takes longer than that. [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR EBKE: Okay. Thank you. Questions? Senator Hansen. [LB870]

SENATOR HANSEN: Thank you, Chair Ebke, and thank you for coming down and testifying today. So if I'm following along, you're the third YRTC staffer who's came and testified today, and it seems like none of you particularly like or even really think that the solitary is a good use, but it is sometimes a necessary use? [LB870]

LAURA BUGAY: It's an absolute last resort when somebody is assaulting somebody else or they're threatening to and they're moving in that direction. We do lots of training. I do trauma-informed care training for all of our new staff and staff that have been there. Whether they've been there 30 years or six months, they do that training repeatedly. We do motivational interview training, teaching staff how to intervene verbally and how to watch for those cues and signs that kids might be escalating. But they don't always give you those signs. If it were that simple, these kids would have been treated successfully in the community and they haven't been. We don't have community facilities to accommodate these kids. We have overflows of kids. We need a better system outside of our facility and we need a better system inside and that's what we're working towards. When you time limit our ability to do an intervention that best suits the needs of that child, and I do agree there needs to be a time limit, but there are kids who don't settle down in three hours. Because of their neurological system and what's occurred with their life experiences and their trauma, their systems do not do that, not like yours, not like mine. Their systems are different. We have to reprogram that maladaptive stress response, and that takes time, you know, it takes time. But we have lots of checks and balances because those of us who work with these kids do care about these kids. [LB870]

SENATOR HANSEN: Sure. Sure. I appreciate that. And I guess I had kind of two questions to kind of look at this more holistically, because obviously we're tunnel visioned in on this one particular area of the bill but using this as an opportunity to get your perspective. You know, you talked about student...not students, but you talked about juveniles, kids coming to your facility that have severe trauma, that have things like PTSD. I'm assuming that some of those are acquiring that in the system, you know, before their first interaction with the state and before they get to you. Is that correct? [LB870]

LAURA BUGAY: Yes. [LB870]

SENATOR HANSEN: Is...are some of these kids you're dealing with, with the PTSD, is that something they might have acquired via some sort of use in a different facility? Is that in your experience? [LB870]

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

Judiciary Committee
January 24, 2018

LAURA BUGAY: It's certainly possible, or it may compound it. You know, some of the way...perceptions are sometimes distorted because of life experiences. We all have that. But when these...these kids have come through some pretty significant life experiences and we have to appreciate that and understand it and allow them sometimes to say, I'm not ready yet,... [LB870]

SENATOR HANSEN: Okay. [LB870]

LAURA BUGAY: ...because I'll have a kid that needs to come out and he'll shut the door and, if that door is shut, it's in voluntary confinement and he shuts the door himself because he's not ready to come out. He needs down time. He needs to be away from the stimulation, away from the other people so that he can regroup and get to a point where he can process things. If we rush them out, we don't allow them that--and kids know when you do that--when you don't understand what they need and it's imposed upon you to provide limits and restrictions, then they, too, see you as one of those people who does not understand them. So it's...there's got to be some give and take, a little bit, but certainly I wish we would never have to use it, ever. [LB870]

SENATOR HANSEN: And following up then, I guess my last question is, is taking opportunity to look at this kind of broader. You have a captive audience of state senators who are interested in this issue too. What else could we be providing you as kind of a front-line provider at the YRTC in terms of resources, staff, training, regulations, anything off the top of your head what would...something that would actually, you know, protect staff, make your job easier. Is there anything that you can identify right...? [LB870]

LAURA BUGAY: I think some of what my coworkers have already mentioned are pretty important. I'm a little bit luckier in that it's different if I'm assaulted as a mental health provider or a medical staff. But our front-line staff don't have that. They don't have that and there are kids who have some antisocial thinking processes going on that right away we cannot disrupt. It takes us time to deal with that. Those staff aren't protected and the kids know that. They know that and it doesn't bother them; it does not bother them to assault or to harm somebody, so it's hard. [LB870]

SENATOR HANSEN: All right. Thank you. [LB870]

SENATOR EBKE: Okay. Any other questions? Senator Halloran. [LB870]

SENATOR HALLORAN: Thank you, Chair Ebke. Real quick, thank you for what you do. I know it...I mean that's...you're in the trenches. [LB870]

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Transcriber's Office

Judiciary Committee
January 24, 2018

LAURA BUGAY: We're in the trenches. [LB870]

SENATOR HALLORAN: And you see it firsthand and that's why I did ask some of the previous testifiers whether or not they were in the trenches, because--just an observation--it's easy to be several hundred miles away looking at data and numbers and trying to draw conclusions without actually having been there and done the hard work. A quick question, it may seem like--and it probably is--a rather abstract question, but, and something you don't necessarily track, but do many of these youth have difficulty in reading and writing? [LB870]

LAURA BUGAY: Yes, they do. They do, and that's...those are issues that we identify up-front and help them work on. [LB870]

SENATOR HALLORAN: Okay. Thank you. [LB870]

LAURA BUGAY: Yeah. [LB870]

SENATOR EBKE: Just one question: Most of the folks that came down from YRTC, did you all drive down together? [LB870]

LAURA BUGAY: Some of...most of us, yes. [LB870]

SENATOR EBKE: Did you have to take the day off? [LB870]

LAURA BUGAY: Yes. [LB870]

SENATOR EBKE: Well, thank you for doing that. Thanks for coming down. [LB870]

LAURA BUGAY: All right. Thank you. [LB870]

SENATOR EBKE: Think that's it. Thanks. Next opponent. [LB870]

MORGAN DORITY: My name is Morgan DORITY, M-o-r-g-a-n, last name D-o-r-i-t-y. I'm here to represent detention officers of Lancaster County Youth Services Center, as well as FOP Lodge Number 77. Wrote a letter here. I just want to read it to you guys. As detention officers of Lancaster Youth Services Center, we would like to address serious concerns regarding Nebraska LB870. The policies of the Youth Services Center have been amended to reflect 2016 bill regarding room confinement. With the changes youth continue to push and challenge, including

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Transcriber's Office

Judiciary Committee
January 24, 2018

assaulting their peers, staff, knowing they'll be placed in their room for an hour or less. Since 2016, in our facility, resident-to-resident assaults have risen by 40 percent; resident-to-staff assaults have risen by 42 percent. In addition, obstruction of correctional operations have also risen. As Youth Services Center staff, our number-one policy is to maintain safety and security of youth, staff, LPS staff, and other contracted personnel. In doing so, the Youth Services Center have several interventions when managing the residents' behavior. When all other interventions have been exhausted, our last resort is time-out. We refer to time-out when a youth is placed in his or her room for one hour or less. And in rare and incredibly dangerous situations, a youth may be placed in his or her room for more than an hour. The time of separation is only used when a youth is a threat to the safety and security of the facility, self, or others. Explicit documentation of the youth's activities and behaviors relating to the use of room time is always provided. Furthermore, when a youth is placed in his or her room, a staff person is required to check on that youth every 15 minutes or more, depending on the situation. Additionally, all rooms are equipped with an intercom to the control center in order to notify the operator of any needs or wants they may have. LB870 is removing an intervention that is only used to ensure safety and security. It is never used as a means to harm youth. Some youth at the detention center are extremely violent, unpredictable, and apathetic. There are youth who assault other residents and staff. Recently, October 17...October of 2017, five detention officers were violently assaulted by multiple youth. One staff member has endured multiple surgeries as a result. As detention officers, we are aware there is always a risk of harm; however, the risk has never been higher than it is today due to the changes to our policies. We have never been placed in such dangerous situations that we've dealt with in the last two years due to the changes to our policy to reflect the recent bills. The changes to our policies result from the legislative bills that sound good on paper and in theory; however, in reality, it is placing youth and staff in very dangerous situations. [LB870]

SENATOR EBKE: Got another sentence? [LB870]

MORGAN DORITY: Youth housed at the detention center are housed from charges ranging from murder, armed robbery, assault, sexual offenses, to truant and other nonviolent crimes. And I have more, but I didn't get a chance to read it. [LB870]

SENATOR EBKE: Okay. Thank you. Questions? I see none. Thank you for coming today. How many more testifying on this bill? One, two? Okay. [LB870]

TAMI STEENSMA: (Exhibit 23) Good afternoon. I am Tami Steensma, T-a-m-i S-t-e-e-n-s-m-a. I'm the director of the Patrick J. Thomas Juvenile Justice Center in Sarpy County, Nebraska. While a bill surrounding solitary confinement is absolutely needed, I feel there are some unintended consequences that follow. Sarpy County's Patrick J. Thomas Juvenile Justice Center,

Judiciary Committee
January 24, 2018

also known as the JJC, is now one of only two staff-secure detention centers in Nebraska. When the ACLU sought out information and published an article over two years ago about solitary confinement in Nebraska, it stated that the JJC did not have a policy on solitary confinement. The reason a policy did not exist was because solitary confinement, as defined then, was not used. Instead of adding that later component, the article was misleading as if the JJC uses solitary confinement with no policies or regulations that govern the use of it. That's simply not true. I'd like to note that an invite has been extended to my facility by...to the ACLU and other stakeholders, but that invite still stands two years later. When a youth assaults another in a detention center, safety and protection of a victim has to be the priority. In some cases, law enforcement is deemed necessary and juvenile probation is also contacted. This process could last longer than two hours or three hours. To return a youth perpetrator of any kind back to general population within three hours is putting other residents at risk. Some of the options provided in LB870 if a youth can't return to the general population, we...one of them is that they could go to a medical facility. Most medical facilities will not keep a combative youth. If anything, they have to be EPCed. In some instances, those youth are returned back to my facility within just a matter of hours or maybe even 24 hours without even having any psychiatric care. Another option is putting them in a medical unit within my facility, and my medical unit is actually significantly smaller than just the intake area that I currently have. So to reiterate, I am in agreement with the solitary confinement bill but just ask that maybe individual facilities be looked at in some consideration for their...for each facility. [LB870]

SENATOR EBKE: Thank you. Senator Krist. [LB870]

SENATOR KRIST: So for the record, "Brother" Shea and I spent quite a bit of time in your facility and talking about some of the issues and I think you should be proud of the tradition that you've started in Sarpy County and continue to have. [LB870]

TAMI STEENSMA: Absolutely. [LB870]

SENATOR KRIST: Your concurrence with the intent of trying to eliminate solitary confinement supports the scientific data, which is why I signed on to this bill. The devil is always in the detail and if there are facilities that are doing things right, more right, and have more luxury than others, then I think that information is critical to be shared. And just the stakeholders that are here in this room probably will either agree with Dr. Wiener's assessments or they will disagree, but I think, regardless of what happens to this bill, round-table discussions need to continue to happen on into the future about confinement and the lack of confinement for our kids and what's appropriate and what's not, and that's what this hearing is all about and that's what I've spent the last nine years, ten years trying to...trying to affect juvenile justice while I've been here. I believe, and you said it with the medical facility and I was waiting to make this point, I believe that

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Transcriber's Office

Judiciary Committee
January 24, 2018

behavioral, mental health, and substance abuse issues in this state have been looked over. I think when you get to a point where you have a child who is behaviorally or mentally incapable of doing what they need to do, they don't belong in your facility anymore. They belong in a place where they can be treated and where they can potentially get better or at least be able to cope with what they have. So when you say you want a framework to make things better in a facility, I think we should be looking at behavioral, mental health, and substance abuse in terms of our regions, in terms of the products--and this is just not for juveniles, it's for adults as well--the products that we need to treat. So we're putting you in, just like we're putting the entire corrections system for adults in an untenable position to be a mental health, a behavioral health, and substance abuse facility, along with all the other things that you're supposed to be doing to help detention and rehabilitation of our youth, because that's where our efforts should lie. So I'm sorry I pontificated on your time. If you'd like to add anything or respond to it, that's all right. [LB870]

TAMI STEENSMA: I just completely agree with you, Senator. [LB870]

SENATOR EBKE: Any other questions or comments? [LB870]

SENATOR KRIST: Yeah, it wasn't a question--sorry. [LB870]

SENATOR EBKE: Thanks. [LB870]

TAMI STEENSMA: Thank you. [LB870]

SENATOR EBKE: Next opponent. [LB870]

MARK LaBOUCHARDIERE: (Exhibit 24) Good afternoon, Senator Ebke and members of the Judiciary Committee. My name is Mark LaBouchardiere, M-a-r-k L-a-B-o-u-c-h-a-r-d-i-e-r-e, and I'm the director of facilities for the Department of Health and Human Services. I'm here to testify in opposition of LB870, a bill that would limit the use of room confinement in juvenile facilities. Our concerns with the proposed legislation stem from our priority of safety and well-being of our youth and staff. Our first concern is the three-hour maximum time limit. Returning a youth to the general population after such a short period may result in violent behavior. In extreme cases, returning a youth to the general population before they have had adequate time to reflect has resulted in injury to others. In addition, and as the committee is aware, neither of the YRTC's are fenced-in facilities. While we believe not having fences is conducive to fostering an environment of mutual respect, we also have in our care youth that have escaped from multiple placements prior to coming to our facilities. We expect to see an increase in assaultive behavior

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

Judiciary Committee
January 24, 2018

and escapes should we only have a three-hour time frame to work with youth in a controlled environment after they have committed an infraction. We cannot protect the youth or the community from these types of events with only three hours of confinement at our disposal. Another concern is the recommendation that youth who pose a threat be transferred to a mental health facility. The option is simply not feasible. Mental health facilities have their own admission criteria that includes things like acute suicidal behavior and thoughts. Aggressive behavior is not grounds for these facilities to admit our youth. We understand there are concerns regarding the use of room confinement for youth. We strongly believe in restricting the use of room confinements to situations in which a youth poses harm to themselves, other youth, or staff at the facility. However, three hours is too restrictive. According to national performance-based standards, the national average of juvenile room confinement is 15.39 hours. We have made concentrated efforts to reduce the use of room confinement at our facilities. As part of these efforts, we have consulted with Indiana and Ohio, who are considered to be national leaders in the area of reducing room confinement. These states require a great deal of administrative oversight for room confinement, while still allowing facilities discretion to decide whether to keep a youth out of general population, should they continue to pose a risk to themselves or others. I have copies of those states' policies available for the committee's review; and they're on the back, so we just gave them to you. We have already seen marked success. Since July of 2016, when we first began tracking length of time spent in room confinement, we have seen sharp declines in the average length of room confinement at the YRTC. At the highest point, YRTC-Geneva averaged 28 hours of room confinement. The last tracking period, from October to December 2017, showed a reduction to 6.5 hours of average room confinement time. YRTC-Kearney has seen a similar decline. At the beginning of tracking, average room confinement was 3.5 days, or 84 hours. The facility ended this last quarter with a low of 19 hours of average room confinement time. As previously stated, efforts to reduce room confinement were already in the works prior to the introduction of this legislation. The facilities fully intend to incorporate national best practices to reduce room confinement. LB870 as written would greatly hinder our efforts and put youth and staff at our facility at risk. For the reasons stated, the department opposes LB870. Thank you, and I'm happy to answer any questions that you may have. [LB870]

SENATOR EBKE: Okay. Thank you. Questions? Senator Morfeld. [LB870]

SENATOR MORFELD: Thank you for coming today, sir. In the analysis that was given to us on the most common reasons for confinement, and I know you don't have it in front of you, so, but one of the...there's some interesting reasons here, and "interesting" is maybe putting it kindly. Staff breaks is one of them: 2.6 percent. [LB870]

MARK LaBOUCHARDIERE: Sorry? [LB870]

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

Judiciary Committee
January 24, 2018

SENATOR MORFELD: Two-point-six percent. [LB870]

MARK LaBOUCHARDIERE: For staff breaks? [LB870]

SENATOR MORFELD: Yeah. "Most Common Reasons for Confinement," actually alleged...thank you, Senator Krist. One of the reasons for confinement, and this is data that was sent to these researchers from your agency, I believe...correct? [LB870]

SENATOR KRIST: That's what I understand. [LB870]

SENATOR MORFELD: Yeah, that's what I understand. Staff breaks is one of the reasons why some youth are confined. [LB870]

MARK LaBOUCHARDIERE: Staff breaks is not something that we...this is not YRTC-Geneva or Kearney information. [LB870]

SENATOR MORFELD: Oh, okay. [LB870]

MARK LaBOUCHARDIERE: This is...they are looking at statewide what they are submitting. [LB870]

SENATOR MORFELD: Statewide. [LB870]

MARK LaBOUCHARDIERE: So this could be NCYF, this could be detention,... [LB870]

SENATOR MORFELD: Okay. [LB870]

MARK LaBOUCHARDIERE: ...but at the YRTCs we do not use staff breaks. [LB870]

SENATOR MORFELD: Okay. That's a great clarification. [LB870]

MARK LaBOUCHARDIERE: Okay. [LB870]

SENATOR MORFELD: Thank you. [LB870]

MARK LaBOUCHARDIERE: Thank you. [LB870]

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

Judiciary Committee
January 24, 2018

SENATOR MORFELD: I'll follow up another time then once I look at it. [LB870]

MARK LaBOUCHARDIERE: Absolutely. [LB870]

SENATOR EBKE: Senator Krist. [LB870]

SENATOR KRIST: Hence my comment before--apples and apples, oranges and oranges--in looking at different facilities, so I appreciate the clarification as well. [LB870]

MARK LaBOUCHARDIERE: Okay. And when we talk about apples to apples, Senator Krist, I mean, you've been to the YRTC, you understand. We're being compared to basically like NCYF and (inaudible) centers who have fences, who have locked individual cells. You've been there. You see it. We are a dorm-style setting in our units. It's not as though we have the option or ability when we have youth who assault each other or assault staff to just keep them on that unit. They have to go somewhere else because of the victim or also for medical reasons. And so (inaudible) fully agree with the apples to apples. [LB870]

SENATOR KRIST: Just one more comment...question...I'll make it a question. While a person is...a child is put into some kind of solitary confinement or separated, is there a continuing effort at your facilities to reason with them, to check? I mean they say we check on them every 15 minutes, but are we engaging? We're not just throwing them in solitary and not talking to them. [LB870]

MARK LaBOUCHARDIERE: Absolutely not. So even though our numbers have gone down from 86 hours to 19 hours, it's like one of the case managers who came and testified earlier and our mental health staff said, we are pushing them more than ever to go engage with the youth even while they're in there. And what we submitted, as stated before, they get to go on visits with their family outside the confined area to go visit with them. They're allowed to make phone calls. They're allowed to go for recreation. They got to get schoolwork in their room. They get mental health visits in their room, medical come visits, the pastor come visits. Sometimes we have youth, from the units where they came from, come to the confinement room or that area to come talk to them and to change their mind because sometimes they relate more with the youth than our staff. All this goes on within the 19 hours. It is not that they're just in a room by themselves for that whole time. They have a lot of interaction. But until they are ready to come back out, sometimes, if I have a kid who is saying, I will still assault a staff or assault the kid back on the unit who snitched on me or did something to me, I cannot send him back into a violent situation, because that is setting him up for failure. [LB870]

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

Judiciary Committee
January 24, 2018

SENATOR KRIST: I think that's an important clarification and I thank you for making it, and I also want to publicly say that I think your presence in that, in the two facilities, has made a marked difference in the way that we're treating kids, and clarification that the legislation that we have put into place over the last few years, reducing your numbers has made it a little easier for you to deal with a smaller number of people, I would hope. Just keep up the good work. [LB870]

MARK LaBOUCHARDIERE: And just like you said, our numbers have reduced, but what has changed, as you're aware, through a previous legislation bill, we only get the highest risk kids. We no longer...back then we used to have the low-risk, the medium-risk, and the high-risk kids, which were larger, but now only the highest risk youth of Nebraska are sent to the YRTC's, so it's a different game to play with. [LB870]

SENATOR KRIST: My staff tells me I can't use the phrase "the worst of the worst" anymore, so I'm not going to do that. We get it. We get it. Thank you very much. [LB870]

MARK LaBOUCHARDIERE: Thank you, Senator. [LB870]

SENATOR EBKE: Senator Baker. [LB870]

SENATOR BAKER: Thank you, Chairwoman Ebke. Sir, help me out with your name. I don't want to butcher it. How do you pronounce your name? [LB870]

MARK LaBOUCHARDIERE: It's La-boo-shar-dee-air (phonetically). [LB870]

SENATOR BAKER: That's what I thought (laughter). So a lot of the concern is over the three-hour time limit. Is there any science behind that, that three hours is not enough? I mean, would there not be a lot of cases which three hours would be not only enough but more than enough for some of them to calm down? [LB870]

MARK LaBOUCHARDIERE: Absolutely. So our numbers with the 19 is an average. There are times when a kid is in there for less than half an hour just to regain himself. He just needed some space from... [LB870]

SENATOR BAKER: Yeah. [LB870]

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

Judiciary Committee
January 24, 2018

MARK LaBOUCHARDIERE: Just like some of the other people talk about, they might be a victim themselves who want to get away from the assaulter, so they just need a half hour to regain, refocus. The three-hour number, I don't believe that should be some strict number because everybody is different. We're all human beings. We decompose differently; we de-escalate differently. As soon as a kid is able to regain composure himself, they should not be in a confined setting anymore. Two of the states that...which I've sent you the policies on, who are the leading national juvenile room-confinement states which are being touted and people are going to them as to this is the way we need to do room confinement in our facilities, is Ohio and Indiana, and even they have policies in place which do not restrict them to three hours. They use a very delineated process of approval for everything after a 3-hour, 6-hour, 8-hour, and a 24-hour limit, so it has to go up all the way even to my level as the director of facilities, even a public facility administrator at the facility who has to approve those, because then we got to look at all the different ways, what interventions have we tried, who else can we bring in, what else can we do to get this kid out. So these states have done that and shown to be a huge success in how they've been operating. So but to answer your question, they...that three-hour time frame, it's something which it could be based on each kid. But even with those other states I mentioned, they did not have a three-hour limit and they've tried that and it has not worked. That's why they have to have other protocols in place, because if a kid at three hours says, I still want to assault that staff, if I was to have to release him out of there and put him back in a general population unit, it poses a huge risk to our staff and our youth. [LB870]

SENATOR BAKER: I'm okay with that so long as the focus, the desired results are those for the person in the room rather than desired results are for those people who are tired of working with the kids, so thank you. [LB870]

MARK LaBOUCHARDIERE: You're welcome. [LB870]

SENATOR EBKE: Other questions? Senator Hansen. [LB870]

SENATOR HANSEN: Thank you, Chair Ebke, and thank you for coming to testify. I have to ask this. It's both in the fiscal note and in your testimony. You mentioned the fencing. [LB870]

MARK LaBOUCHARDIERE: Yes. [LB870]

SENATOR HANSEN: I wondered if you could start by expanding on that a little bit. [LB870]

MARK LaBOUCHARDIERE: Okay. Just like Senator Krist was talking earlier about apples to apples, the kids that we get at our facilities, as some of you are aware, they have escaped from

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

Judiciary Committee
January 24, 2018

multiple placements prior to coming to the YRTC. They are used to running away from their problems and, therefore, escaping. At the YRTC, if you've been there, it's a completely open campus. We are dorm style. We have...every building is separate. They have to actually walk across campus to go to school. We're in a residential neighborhood. So when we have had escapes and the media puts us out there--we do have escapes--but when we do have escapes it's...and we place them in a (inaudible) in a confined area, it allows them the time to be able to process why they are running. [LB870]

SENATOR HANSEN: Sure. [LB870]

MARK LaBOUCHARDIERE: If I was...if they would only get...the max is three hours. If they were to get only...they are calm and composed. So we just had a kid who escaped a few weeks ago and they went on a--two kids--high-speed chase, rolled a car. Okay, they come back. When they come back to our facility, they are calm. They're not upset. They're not at a state where they should be confined at all. They're not aggressive. They just want to escape again. So I was...if I was not allowed to put them in confinement, they're going to take off right again, or if I was...had to keep them for a short amount of time. What the fence does is allows the community and other people to be safe, because otherwise they would take off. Nebraska is one of only two states in the whole country where they house high-risk youth at a state facility who do not have a fence, and the other state is North Dakota whose facility is on the outskirts of the city and there is a river that runs through to the city, so even if a kid does take off they got to run...they got to swim through a river, I guess. So having no fence, having these kids who have a history of running, having a history of coming from a detention facility or other places where there are individual locked rooms and then coming to the...and we are supposed to be the end of the end for...because once a kid comes to us, they don't go anywhere else. I can't send him back to somewhere else. And to place a kid of that high risk and say stay within our grounds, it's not an easy task to do, especially then when we don't have the time table to work with them, whether it's the confined setting or not, to be able to change their thinking of how they deal with their problems. [LB870]

SENATOR HANSEN: All right. Thank you. [LB870]

MARK LaBOUCHARDIERE: You're welcome. [LB870]

SENATOR EBKE: Other questions? I see none. Thank you for being here today. [LB870]

MARK LaBOUCHARDIERE: Thank you, Senator Ebke. [LB870]

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

Judiciary Committee
January 24, 2018

SENATOR EBKE: Next opponent. Okay, do we have any other opponents? Okay, neutral testimony. [LB870]

JEROMY WILSON: I don't have anything prepared. Hello. My name is Jeromy Wilson, J-e-r-o-m-y W-i-l-s-o-n. In regards to this matter, I do remain neutral with a strong agreeance to lean towards an agreeance to this bill. The reason why is I was actually a ward of the state from the age of 3 until I turned 18. I was in the state's custody for 15 years. And granted, times have changed, obviously, since I was a ward of the state. However, a lot of the issues that stemmed from psychological standpoint and just on a personal basis came from me being locked away and throwing away the key. So I can recall many of times that I've sat in a confined room where I didn't have any interaction with anybody, periods of 16-plus hours. So putting a stipulation and a time limit on these is essential because the longer you're away, the less interaction you have, the less likely you are to reintegrate back into society. And I heard some other testimony, as well, in reference to some other people that said, well, you know, we don't want a time limit because essentially what that does is it enabled staff members to keep me behind those closed doors for an undetermined amount of time. So you guys are here making the decision on whether to pass the bill or not, but you aren't behind the doors seeing what's actually really going on. And what that would do is it would allow them, instead of correcting the issue, they could say that they're correcting the issue all they want, but are they really correcting the issue? And from my experience, no, it has not. So I think that having that time limit on there would be extremely beneficial to force the hands that are making those decisions to be able to make other decisions that would be outside of the realm of, you know, okay, let's just put them away, lock them in a room, and go on about our business and we'll get back to them when it's convenient for us. So that's what I really wanted to share with you today. [LB870]

SENATOR EBKE: (Exhibits 1-7) Okay. Thank you. Questions for Mr. Wilson? Thanks for being here today. Is there any other neutral testimony? Okay. I've got some letters. Senator Pansing Brooks, you want to make your way up. We have letters in support from Mary Bahney of the National Association of Social Workers-Nebraska Chapter; Reverend Stephen Griffith of the Lincoln Area Faith Community; Bradley Meurrens from Disability Rights Nebraska; Lisa Casullo of...behalf of herself; Leander Parker from the Mississippi Department of Corrections' Youthful Offender Unit. Opposed, we have Scott Frakes, Department of Correctional Services. And in the neutral testimony we have Julie Rogers, Nebraska Inspector General for Child Welfare. Senator Pansing Brooks. [LB870]

SENATOR PANSING BROOKS: (Exhibit 25) Thank you. Thank you for sitting through all this important discussion. I think it's really important. I want to thank all the people on both sides for coming forward. We heard some very passionate testimony. We heard some impassioned pleas from staff members who took time off and we're appreciative about that. You know, we clearly have been thinking about assault on staff members and that was one of the key priorities in

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

Judiciary Committee
January 24, 2018

drafting this bill is making sure that that is a reason for which somebody can be placed in what somebody called "time-out" but it is solitary. We...I have a few things I wanted to just address and things that have been said. Basically everybody agreed...most of the testifiers agreed there needs to be a time limit. So we're quibbling a little bit over the time. I appreciate the fact that the gentleman who just came up, Mr. Olson (sic--Wilson), talked about the time, the fact that you can just throw people away and put them in solitary and not think about them much anymore. And that's not helping our children in Nebraska. It's not helping them to get better. It's not helping them. So I wanted to quickly discuss that a...we received a letter that you have from Warden Leander Parker from the state of Mississippi. They were forced to deal with their prisons and the fact that they were overusing solitary. He goes...he went on to talk in his letter about some of the positive things. Senator Halloran asked, well, what can you do, what could be done? There are lots of best practices on what can be done. Number one, don't have them sitting in their rooms just doing nothing. And to address Senator Krist, yes, room confinement can be solitary, and here's why. They're sitting there watching all their friends doing everything and they're sitting in a room for days on end watching everything going on, unable to interact. So what we're talking about is not necessarily just that you're in some dungeon somewhere. We're talking about the isolation and when you talk about isolation of children and then you factor in the brain development of a child not being complete until, experts say, 26, and you have them in a room, unable to talk to anybody, somebody is pregnant and can't get to people, they've been taken from their parents and they don't understand fully what's going on, yes, there are definite things that can be done. So this letter from the warden in the state of Mississippi that was forced through a lawsuit to handle and redo their entire juvenile system and incarceration system because it wasn't rehabilitation, it was incarceration and punishment, talks about school, it talks about recreation, it talks about a positive approach to discipline, creating a system for the kids to be rewarded with a point card on four different levels for making their beds, going to school, participation in school, and so on. And they end up then earning points and later...and then have a points store for the weekend where they could get...buy some snacks and radios or headphones or whatever it is, but having some sort of positive system rather than just sanctioning and punishing and making sure that they comply with every single thing that somebody who's aggravated at them wants them to do. So in lieu of just harsh punishment, throwing away the key, there are all sorts of things within the information that I gave you, the new report that came out. It talks about a toolkit for correctional administrators on how to handle kids and to work with kids and give training to staff members, hire staff that understands that kids' brains are still developing. And this warden from Mississippi went on to say that they provide their staff with 40 hours of training that deals with brain development and de-escalation techniques and mental health training and knowing something about trauma-informed care. So it's easy to say just let us handle it, we're doing fine. I want to commend Lancaster County who came in and said, we don't have a big problem with what you're requiring in this bill. They asked some specific questions: What if there's a facility emergency? Can we put them in? Yes, that fits within the bill. What if there's a medical requirement like stomach flu? With appropriate documentation, that's no

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

Judiciary Committee
January 24, 2018

problem. Sobriety issues, trying to make sure that until that person is sober, but instead we're getting people coming in and saying, no, no, no, there's nothing we can do. They talked about creating a framework. I'm happy to talk about a framework. I'm happy to move forward and figure out what we can do. Their framework was building a \$4 million fence. What kind of framework is that? I guess it is a framework in actuality. I guess I just misunderstood that. So also Lancaster County came in and said, you've said continuous, is every 15 minutes satisfactory? I believe that is satisfactory, checking in, making sure that they're okay, not having them crying for hours and hours and keeping them in confinement because somebody is crying. I'd be crying if I were put into solitary confinement, I'll tell you that. Whether it was an hour or ten days, I would be a wreck. And expecting some kids, some little kids from Nebraska to sit there in solitary confinement and, you know, buck up, pull yourselves up by your bootstraps, learn how to get along, and we're not going to give them all of the training they need because we don't have the money, where is the money and the fiscal note for programming? Where is the money and the fiscal note for providing programming and counselors to help these people who are really hurting, or for extra staff? There is something from Department of Corrections on extra staff, seems more reasonable: \$300,000. But \$4 million for a fence is how we're going to deal with it in our community when we know that best practices show that it is not best practices to put these children away? Again, it's talking about risk to self and others; it's talking about assault to staff. Again, Senator Krist, you walked out and I just want to clarify. It...confinement can be room confinement. That isn't some happy place. The issue is isolation. And so we have got to figure this out. On page 27, YRTC is...YRTC, in the IG's report, it talks about that they are mostly putting kids in confinement for administrative and behavioral infractions and administrative infractions and for things that aren't best practices. And all out there is all sorts of information about best practices. We need to make our kids safer to come back in our communities. We have to give them the programming necessary to allow them to come ready to work and participate in our work force and the community. It's an economic problem for our state. It's about economic development. It's about doing the right thing and I hope that we can find some sort of common ground. If YRTC needs a fence, then, gee, maybe we better build a fence. If that's their problem, we've never heard this problem before and I guess they can't keep them in the building, they can only keep them in a room, that's a sad statement of affairs. But if that's what they need, then I guess that's something that we have to talk about as the Judiciary and the Legislature, building a fence. So I appreciate your time. There is a wonderful study that is...that didn't get passed out to you because somebody had to leave, but from the ACLU regarding why young Nebraskans are in solitary. It gives you all sorts of numbers on this. We know that youth of color are overrepresented in the use of solitary confinement. That should not be happening. Thank you very much for your time. [LB870]

SENATOR EBKE: Thank you, Senator Pansing Brooks. Any questions? Senator Chambers.
[LB870]

SENATOR CHAMBERS: I have such strong feelings when it comes to children and young people. And when I came in the room and saw how many people are here who should have the opportunity to speak, I made up my mind I was not going to question anybody, I was not going to make comments, because, as is known by the members who have served with me on the committee, I can sometimes extend the hearing, which I didn't want to do. With this many people, the interest is here, even if their interest takes them in a direction other than mine. I think the fact that you brought a bill of this kind focuses attention on a very serious problem, is noteworthy and commendable. And as I often do, there are comments...there is a comment that I might make. I saw where the Governor was boasting when a license plate that said "Choose Life" came out and he said this is a right-to-life state and that's the way we treat people. Well, the (inaudible) I looked at, that's the way we treat people not to encourage and assist the development of people once they get here. If they carried that attitude that they have toward fetuses past the end of the birth canal and looked at these children the same way and argue and sputter like they do for fetuses, and I'm using that term to make a point, then we wouldn't have the kind of problems we have now. We would have people trying to work to see how we can smooth some of this stuff out and produce better-adjusted adults. We would remember how it was when we were children. There were times we wanted to talk to an adult and they were too busy, they would become irritated because we wanted to talk to them, then when we become what they might call morose and withdrawn, then they can't understand it. Maybe they really don't because they're so busy with a lot of other things, but the child has a very small world in which he or she lives. And if his or her feelings were hurt, if he or she felt rejected, chastised because honest things are stated, then we push our children to do things that we later on are going to condemn. And my final comment, the thing that surprises me is that children don't do worse things than what they do now. [LB870]

SENATOR PANSING BROOKS: Thank you, Senator Chambers. [LB870]

SENATOR EBKE: Senator Krist. [LB870]

SENATOR KRIST: The discussion of fences has been a constant discussion at YRTC-Kearney because of the walkaways and the folks who have escaped in the past. That was diffused three or four years ago and we dealt with how would we fence in that entire facility, how would we fence in one of the...I'll call it a cottage, how would we control. They've taken affirmative action and actually I was completely taken back by the fact that they put a, quote unquote, uniform or colors on at YRTC-Kearney, for example. So they have taken some steps to try to make sure that those walkaways are diminished and that the secure facility is there. Now that's...I'm being kind. And now I'm going to tell you the best way to kill any idea is by fiscal note. That was, in my mind, an appropriate response to the problem, the comment I made before about stakeholders getting around and making logical decisions and looking at best practices, and I think what we heard, besides the fiscal note, besides the malarkey about another damn fence, is that there is some real

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Judiciary Committee
January 24, 2018

interest in trying to do that. So I'm just echoing what he said. I think bringing the bill forward is great, the discussion is there. We still have some work and I just want you to know that everybody still loves you. That's all. [LB870]

SENATOR PANSING BROOKS: Thank you for that historic perspective, Senator Krist. [LB870]

SENATOR CHAMBERS: May I end on a light note? I have a bill that deals with prairie dogs coming into other people's yard. I am going to adopt the slogan of the President as a way to solve that problem. Instead of the county sending people into other people's property to poison these animals, tell all these neighbors, build a wall (laughter). [LB870]

SENATOR EBKE: Anything else? Thank you, Senator Pansing Brooks. [LB870]

SENATOR PANSING BROOKS: Thank you (inaudible). [LB870]

SENATOR EBKE: Okay, I'm going to ask for just a show of hands. How many are planning on testifying on LB689? Okay, we're going to forge ahead then. I was thinking about taking a five-minute break, but we're going to go ahead and forge ahead. Let's get this one underway and then we'll take a break at the conclusion of LB689. Senator Blood. [LB689]

SENATOR BLOOD: Yes, Chairwoman Ebke. Are we ready? [LB689]

SENATOR EBKE: We are ready. [LB689]

SENATOR BLOOD: Chairwoman, Chairperson,... [LB689]

SENATOR EBKE: Go for it, whatever. [LB689]

SENATOR BLOOD: ..."Chairhuman"... [LB689]

SENATOR EBKE: I'll take whatever you call me. [LB689]

SENATOR BLOOD: Good afternoon, members of Judiciary Committee. My name is Senator Carol Blood, spelled C-a-r-o-l B-l-o-o-d, and I represent District 3 which is comprised of western Papillion...excuse me, western Bellevue and southeast Papillion. I want to thank you for the opportunity to speak with you about LB689. LB689 is about making sure the language in our

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

Judiciary Committee
January 24, 2018

statute matches the way we are implementing current law. We are not looking to insert new standards or exempt any new groups. This is, in essence, nothing more than a cleanup bill. When the Legislature changed its sex offender statutes a few years back, it inadvertently created an inconsistency in how the law was being carried out here in Nebraska. We are only correcting this oversight. The state holds that when a juvenile is adjudicated in the state for minor sex offenses, they do not go on the sex offender registry. The problem is, is that when children are adjudicated outside the state and they move into Nebraska, those children are being added to the adult registry. This causes an unfair precedent for those from outside the state. LB689 would add language that would take care of that problem. To be clear, this is not a situation we're giving people additional rights or special rights that weren't supposed to be there already. This is about making sure that everyone is being treated equally and fairly under Nebraska law. In August of 2017, the Eighth Circuit Court ruled in favor of a 15-year-old boy whose family sued the Nebraska State Patrol to keep him from being put on the state's sex offender registry for a juvenile case in Minnesota. From the start, the Nebraska Attorney General's Office conceded that if the boy had done in Nebraska exactly what he had done in Minnesota, he wouldn't have been required to register as a sex offender. But the way the Nebraska law is written, all sex offenders who move here must register, regardless of age. The State Patrol, which maintains the list, was just trying to apply the plain language of the law as written. There were 76 juveniles in the Nebraska State Offender Registry who were adjudicated as juveniles in other states at the time of this lawsuit. Nebraska Statutes were not intended to be more punitive to juveniles adjudicated elsewhere than those that go through the system here. This bill is about codifying behavior that the state courts are already carrying out. They have taken notice of the issue and have realized they cannot treat those who come to Nebraska from another state differently in this regard. This bill makes sure that we have it on the books and that we aren't treating those who are adjudicated out of state differently and won't be in the future. I would ask that you vote this out of committee and to the floor of the Legislature quickly so that we can get this issue cleaned up. Thank you, and I'd be happy to answer any of your questions that you might have. [LB689]

SENATOR EBKE: Any questions for Senator Blood? I see none. Thank you. First proponent. [LB689]

JACEY RADER: (Exhibit 3) Chairman Ebke and members of the Judiciary Committee, my name is Jacey Rader, J-a-c-e-y R-a-d-e-r. I am the commissioner of the Interstate Commission for Juveniles in Nebraska under the Administrative Office of Probation and the Courts. The Interstate Commission for Juveniles, or the ICJ, was established to promote, develop, and facilitate a uniform standard that provides for the welfare and protection of juveniles, victims, and the public by governing the compacting states' transfer or supervision of juveniles. Nebraska became a signatory to the Juvenile Interstate Compact in 2009 under the Nebraska Revised Statute 43-1011. I come before you today in support of LB689. As you may be aware, other states have different juvenile and criminal justice priorities. One of the areas in which this has

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Transcriber's Office

Judiciary Committee
January 24, 2018

become most apparent is related to juveniles placed under supervision for sex-related offenses. Per ICJ rules, which carry the weight of federal law, Nebraska is required to supervise transferred youth under the same standards as a youth who is placed on probation in Nebraska. As you may know, the existing Sex Offender Registration Act does not require Nebraska juveniles to register. However, the law does mandate that individuals required to register in other states are required to register in Nebraska. This has created hardships and concerns for youth and families, including youth who are required to register for crimes simply because their probation supervision was transferred from another state. This has resulted in disparate treatment of youth from other jurisdictions. Under the current law, youth from other states who come to Nebraska and are required to register are placed on the Nebraska sex offender registry alongside adults. The result has been youth, some who are as young as 13, having their personal information, address, offense details, and photograph easily accessed by the public. A recent ruling by the United States Eighth Circuit Court of Appeals mandates that a juvenile entering the state of Nebraska who is required to register in another jurisdiction, based solely on a juvenile adjudication, is not required to register in Nebraska. This conflicts with the state statute as currently written. LB689 seeks to rectify the discrepancies between the current practice and existing statutes. In closing, Nebraska Probation is committed to the restoration of victims and the rehabilitation of probation clients, both youth and adult. We are dedicated to community safety and we are devoted to upholding the laws of both the state of Nebraska and the United States. LB689, if passed, will allow for increased clarity and alignment related to the registry of sex offenders in Nebraska while affording the same confidentiality for youth transferred to Nebraska through the interstate compact as those who are adjudicated by a Nebraska court. I appreciate your time today and I'm happy to answer questions. [LB689]

SENATOR EBKE: Thank you for being here. Any questions? I see none. Thanks. Next proponent. [LB689]

KENNETH ACKERMAN: (Exhibit 4) Good afternoon, Chairman Ebke and Judiciary Committee. My name is Kenneth Ackerman, K-e-n-n-e-t-h A-c-k-e-r-m-a-n, and I agree with Nebraskans Unafraid's position. We support LB689, which aligns the original intent of the Legislature not to require those who committed registry...committed stated crimes as a juvenile from being placed on the registry. This amendment keeps someone who is placed on the registry for offense as a juvenile in another state from being required to be registered in Nebraska. LB689 addresses Section 29-4001, the definition of the sex registry, and continues with a totally false legislative finding. Section 29-4002 states that "sex offenders present a high risk to commit repeat offenses." The Legislature then paid the University of Nebraska to do a study which proved the exact opposite: that the recidivism rate is alarmingly low, lower than any other category of crime but murder. Perhaps the higher rate of suicide for those being told they would be placed on the registry for the life is the same as putting to death murderers. Judicial findings all over the country are revealing the failure of the registry to be anything but punitive and

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Transcriber's Office

Judiciary Committee
January 24, 2018

vindictive, as well as unconstitutional in many ways. The issue at hand is the registry law requires anyone registered in another state to register here. LB689 only addresses juvenile crime because of a judicial ruling. So, Senator Blood and Judiciary Committee, I ask you to at least consider to amend the bill to exclude not just juveniles but all those who are on the registry for crimes in other states that are not included in the Nebraska registry but still required to register in Nebraska when moving here. One of these crimes not listed in Nebraska is urinating in public, but that's listed in five other states. But at least Nebraska Legislatures were smart enough not to go after the popular sports hunters. [LB689]

SENATOR EBKE: Any questions for Mr. Ackerman? Thank you for being here today. Next proponent. [LB689]

JEROMY WILSON: (Exhibit 5) Good afternoon, Chair Ebke and the rest of the senators here on the Judiciary Committee. My name is Jeromy Wilson out of Omaha, Nebraska, and I come today in support of LB689. And you spell my name J-e-r-o-m-y W-i-l-s-o-n. Most of you might have remembered I came in and testified at LB60 last...at the beginning of January with my daughter. And I actually come in front of you today as a victim of sexual abuse, a child who grew up as a ward of the state, and a lifetime registered sex offender. I'm also a father and I wanted to let you know that the sex offender registry was enacted as means to notify the public of dangerous offenders within their communities. Since the enactment of the registry in 1994 under the Jacob Wetterling Act, laws have advanced to become more punitive in nature than civil, which makes us all argue the constitutionality of the sex offender laws and how the general public can possibly be safer when they are constantly living in false fears they are fed on a daily basis. What are the false fears, you may ask. Do you see me driving a black van with tinted windows? How about walking around a school with absolutely no reason of being there? No. I am a human that breathes the same air as all of you do. I am a taxpayer. I am a business owner. I am a father. I am a human being. Everyone on the sex offender registry are viewed as monsters. Roy Ellis, that's a monster. He kidnapped, raped, and murdered a 12-year-old girl named Amber Harris. He is on the same registry as I am and as everyone else that is on the sex offender registry is. How do you compare me or anyone else on the registry with someone like that? How is that justice? I don't see the justice in that. If I am forced or anyone on the registry is forced to become homeless, jobless, and can't provide for their families, how do you think they will make it through? I'll tell you how: by committing other crime, by robbing people, by stealing, by going out and doing what they only have the opportunity to do. So how is this making the communities any safer? It's not. LB689 gives these kids a chance at redemption, a chance to change, a chance to be something better than any of us in this room. To put kids on the registry when it's hard enough as an adult because of the unintended consequences is victimizing these kids and not giving them a chance to rehabilitate as productive members of society. I'm going to move a little bit forward because I don't want to overspeak my time. But I've talked with each and every one of your offices and staff in regards to the registry needing to be changed and yet here we are continuing

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

Judiciary Committee
January 24, 2018

to kick the can down the road because too many senators are too fearful as to public opinion and what a few voters may think than to introduce commonsense legislation which would help to keep people off the registry that present little-to-no danger to the community or the general public. Thank you. [LB689]

SENATOR EBKE: Thank you, Mr. Wilson. Questions? Thank you for being here. [LB689]

JEROMY WILSON: Thank you. [LB689]

SENATOR EBKE: Next proponent. [LB689]

JULIET SUMMERS: (Exhibit 6) Good afternoon, Chair Ebke and members of the Judiciary Committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here representing Voices for Children in Nebraska in supporting LB689. And I'll be brief because we see this as just a simple cleanup piece of legislation to bring our statute into line with the recent federal court decision that the senator described in her introduction. So you have my full testimony in front of you that you can read at your leisure in all of your spare time, but I'll just note that prior to joining Voices, when I was a public defender, we did sometimes see these cases where you would represent a juvenile in juvenile court proceedings in Nebraska for something that could be a registrable offense if they were an adult, but Nebraska law was that they wouldn't have to register because they were being adjudicated as a juvenile, not convicted as an adult. And that family might decide to move across state lines. So they had this juvenile adjudication in Nebraska and they would move, say, to Missouri where the offense was registrable. And then sometimes because the offense was registrable in that state, the family would decide to move back to Nebraska. And so then they're in this situation where it wasn't initially registrable in Nebraska but then they moved to a state where they did have to register, and now, moving back to Nebraska, they've had to register in Nebraska, which is just an absurd and unfair result. So there's, as noted, there's already been a federal decision that this...actually holding more broadly that adjudications in juvenile court are not convictions for the purpose of identifying someone as a sex offender but holding also, in a footnote, that there is a constitutional implication as, you know, treating kids differently based on where their charge was adjudicated. So that's already been decided in the Eighth Circuit and this cleanup legislation will ensure that our statute, you know, doesn't muddy the waters. Thank you for your time. I'd be happy to answer any questions. [LB689]

SENATOR EBKE: Thank you, Ms. Summers. Any questions? Okay. Thanks. [LB689]

JULIET SUMMERS: Thank you. [LB689]

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Transcriber's Office

Judiciary Committee
January 24, 2018

MARGENE TIMM: I'm Margene Timm, M-a-r-g-e-n-e, last name Timm, T-i-m-m. I'm the supervising attorney of the juvenile unit in Lancaster County Public Defender's Office and I'm testifying in support of LB689 on behalf of the Nebraska Criminal Defense Attorneys Association. Young people are not mini-adults. This understanding underlies the important United States Supreme Court decisions that have been made over the past decades, the past decade that has protected juveniles from the harshest punishment. This legislative body has also recognized this by enacting juvenile justice reform beginning in 2013. Research tells us that youth are different. Children and adolescents make decisions differently than adults. This includes not only differences in cognitive capacity, which affects culpability, but also differences in their amenability to rehabilitation. Adolescents are uniquely amenable to intervention, treatment, and change. That is the fundamental principle that guides juvenile court. The mission of juvenile court is not only to provide accountability but it's...but, as important, to provide that intervention and treatment for rehabilitation. Placing a juvenile on the sex offender registry is counter to that rehabilitative purpose of juvenile court and can result in significant collateral consequences. It can impact access to education, hinder employment opportunities, and restrict the juvenile's family from housing. It creates the stigma of being barred and branded as a sex offender, which can mark them for life. I looked at the Nebraska sex offender registry prior to coming to testify today. The information available to the public includes the name, the physical description, addresses, school, vehicles, registration duration, and the offense. It also includes a photograph. This public information would not only impact the juvenile but their entire family as well. It would be a barrier to the healthy development of the juvenile and would subject them to potential legal penalties far beyond what the juvenile justice system could impose. If you have any questions, I'd be happy to answer them. Otherwise, I would urge you to support LB689. It's the right thing to do to further the mission of the juvenile court. [LB689]

SENATOR EBKE: Thank you, Ms. Timm. Any questions? Thanks for being here. [LB689]

MARGENE TIMM: Thank you. [LB689]

SENATOR EBKE: Next proponent. If there are...if there's opponent testimony, you might start moving this way. [LB689]

MAUREEN MONAHAN: Good afternoon. Maureen Monahan, M-a-u-r-e-e-n M-o-n-a-h-a-n. I'm here on behalf of the State Bar Association. The Bar Association is in support of this bill. The purpose of juvenile court is not punitive. It is to rehabilitate. This Legislature and previous Legislatures has had the opportunity through different bills to consider whether children adjudicated at juvenile court should be on the sex offender registry. That language has either been amended out of the bills or the bill is rejected altogether. It is the clear legislative intent of the Nebraska Legislature that children adjudicated should not be on the sex offender registry.

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Transcriber's Office

Judiciary Committee
January 24, 2018

The fact that they were adjudicated in another state does not change the makeup and the will of the community which this Legislature represents and seeks to set policy, Enacting this statute makes it clear to everyone in law enforcement, anyone who would look at a sex offender registry or have any power of placing someone on the registry that this cannot happen, regardless of what state you were adjudicated in. And for those reasons, we are in support of this bill. Are there any questions? [LB689]

SENATOR EBKE: Thank you, Ms. Monahan. Any questions? Thank you for being here. Do we have any other proponents? I see none. Any opponents? I see none. Anybody in the neutral? [LB689]

RYAN POST: Good afternoon, Chairwoman Ebke, members of the Judiciary Committee. My name is Ryan Post, spelled P-o-s-t. I am an assistant attorney general in the Nebraska Attorney General's Office. I am testifying today in a neutral capacity and I want to stress I'm not taking a policy position today. I just want to make this committee aware of a few facts as it relates to this bill. First is that the Nebraska State Patrol is already doing what this bill purports to ask them to do. Immediately after the Eighth Circuit decision--August, as you've already heard--there were 65 juvenile names that were removed from the registry and they were sent notifications confirming their removal. The practical result of this bill, or of the decision by the Eighth Circuit, is that a juvenile adjudicated delinquent in another state and required to register as a sex offender by a judge in that other state is no longer required to register when they enter Nebraska. The one thing I do want to highlight for the committee today that I want you to pay very close attention to--and again, I'm not taking a policy position--is look at the drafting of the bill and make sure it's very specific, and if you do want to advance this legislation, that you do clarify exactly what it is you want to do. There is a possibility under the way the bill is drafted that it could not only exclude the juveniles that Senator Blood has referenced, but that it also could exclude someone who later is convicted again as an adult simply because they previously were adjudicated delinquent as a juvenile, and the reason is the specific language of the bill references that these individuals are exempt from the act altogether, not that they're just exempt from the "enters the state" requirement in subdivision 1(a)(iv). And so I would ask that the committee look at that and consider that as they consider the policy question before you. Happy to take any questions you may have. [LB689]

SENATOR EBKE: Thank you, Mr. Post. Questions? Some... [LB689]

SENATOR KRIST: Did you have a conversation with Senator Blood prior to your testimony? [LB689]

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Transcriber's Office

Judiciary Committee
January 24, 2018

RYAN POST: No. To be honest with you, Senator, I wasn't even planning on testifying today and when I saw it was on the agenda, I looked at the bill and I noticed that there was that language in there that I just highlighted moments ago and that's...that was part of the decision to testify, as well as to make sure the committee was aware that the Nebraska State Patrol is following the court decision. [LB689]

SENATOR KRIST: Okay. So the Attorney General's position in terms of that position, your testimony on behalf of the Attorney General is that the NSP is already taking the action that it needs to, to remove those names from the list. [LB689]

RYAN POST: Yes, they...the Nebraska State Patrol complied with the court decision immediately, notified me that they were doing so, and I even represented that to the Eighth Circuit, and I haven't heard anything to the opposite of that since then, so. [LB689]

SENATOR KRIST: You know what, just a comment, I take great pride in trying to make sure that we clean up our statutes and make them consistent with court rulings and Opinions that are brought down and I think we all do. So just because some agency is complying with it, I think you'd agree it still needs to be...the language still needs to be cleaned up. [LB689]

RYAN POST: I would agree that whatever bill is passed is especially clear. It helps us do our jobs. [LB689]

SENATOR KRIST: Okay, thank you. [LB689]

SENATOR EBKE: Other questions, comments? Nope. Okay, thank you. [LB689]

RYAN POST: Thank you. [LB689]

SENATOR EBKE: Are there any other testifiers? Senator Blood, you want to make your way up, and are you planning on... [LB689]

SENATOR BLOOD: (Inaudible.) [LB689]

SENATOR EBKE: You want to close? [LB689]

SENATOR BLOOD: Yep. [LB689]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR EBKE: Okay, come on up and I'll... [LB689]

SENATOR BLOOD: Just making sure. [LB689]

SENATOR EBKE: (Exhibits 1 and 2) Nobody? Okay. We have three letters of support for LB689, one from Andrea Phillips of the National Association of Social Workers-Nebraska Chapter; one from Spike Eickholt, the ACLU of Nebraska; one from Jacey Rader of the Interstate Commission for Juveniles in Nebraska. Senator Blood. [LB689]

SENATOR BLOOD: Thank you, Chairperson Ebke. First I want to say that I do appreciate the State Attorney's Office coming down and clarifying what they thought might be needed to make the bill better. My concern is that it would have been helpful when we had sent the bill up weeks ago that they had sent that down to us prior to the committee hearing. That's very beneficial to me to be able to say, yes, we spoke with the office and, yes, we had that communication, as opposed to finding out about it in committee, because we were very persistent in sharing information, as we always are on our bills, in hopes of working with them in the future. I hope that that message is carried on. Secondly--I want to say this again--my bill is about juveniles. That is my only intent. I am concerned that it became a platform for something else and I would not support an expansion beyond what I brought forward. That is not my bill and I would not support any amendment that would make it outside of juveniles. And I can't make that clearer. And then my other concern...and I do sit on a committee that pertains to juvenile justice, and that is one of the reasons that this bill came forward from my office. And I want to make sure that I serve well on that committee and one of the concerns that I have when we talked about this bill and why I brought it forward is that, you know, now we had a judge that said that it is not legal to...that the State Patrol treated these juveniles different. But what happens when it comes in front of another judge? What's to say that that's going to be the same ruling? It is...one of the things that I worked very hard on when I was on the Bellevue City Council was to try and update the very antiquated language and code, code that should have been changed decades ago. We have that existing in our state statute now, as you all know. This is an acceptable and practical and smart change and I ask you to please vote it out of committee so we can debate. If we need to tweak a word so it's more palatable to the Attorney General's Office, I am acceptable to that. But it's our jobs to codify, it's our jobs to put this in the statute. The statute is not written correctly. [LB689]

SENATOR EBKE: Okay. Thank you. Any questions? Senator Chambers. [LB689]

SENATOR CHAMBERS: Knowing on what friendly terms you are on with our colleague Senator Groene, let him know that even though you came here on an afternoon when we had on one day almost one-third the number of bills that Senator Hughes has in a semester--I mean in a

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

Judiciary Committee
January 24, 2018

session--nobody begrudged you bringing a bill, nobody underplayed the importance and significance of the bill, and I know that you felt welcome to come here not only and bring the bill but make your statements without apology, without hesitation, and especially the latter part where you laid out the parameters of what the bill is as you brought it, and maybe he'll straighten up and fly right sometimes. I meant...that's my comment and I'm being facetious. [LB689]

SENATOR BLOOD: I was going to say, Senator Chambers, I appreciate your openness, but I'm probably not the right messenger for that, but thank you for sharing that with me. [LB689]

SENATOR EBKE: Any other questions or comments? Thank you, Senator Blood. [LB689]

SENATOR BLOOD: Thank you. [LB689]

SENATOR EBKE: This concludes the hearing on LB689. We're going to take about a five- to seven-minute break so staff can get up and move around, and then we'll proceed with LB708. [LB689 LB708]

BREAK

SENATOR EBKE: Ready? Okay, welcome back. We are just under 50 percent of the way done for today. Senator Bolz, LB708. [LB708]

SENATOR BOLZ: (Exhibits 3 and 4) Good afternoon, committee members. I'm here to introduce LB708. I'm Senator Kate Bolz. That's K-a-t-e B-o-l-z. To refresh your memory, this is a bill that builds on legislation that was passed last year with the help of this committee which established bridge orders, and basically bridge orders provide an expeditious way to terminate juvenile court jurisdiction when the only barrier to preventing closure of a case is a custody determination between parents. In the event that the juvenile court determines that a child cannot remain safely in the home of the custodial parent, the noncustodial parent can be determined a safe placement for the child and a bridge order is the effective tool to prevent cases from languishing in juvenile court. At the time that we introduced the bill we thought that this could affect up to 250 kids and we do know that it is being implemented and being implemented effectively. And one of the reasons that we know that it is being used is that we've got some feedback from the court system about some technical changes that would be appreciated, and that's where LB708 comes from. First, LB708 addresses the issue of filing fees for these bridge orders. Under current statute the district court is entitled to collect a filing fee for opening a new case when a bridge order or motion is transferred from juvenile court, and our previous bill was silent on the topic of the filing fees. So subsequently, the parent seeking the bridge order is left

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Judiciary Committee
January 24, 2018

responsible and in a case where a parent might have multiple children and multiple coparents, this can get expensive, especially when you have low-income families navigating the system. So LB708 mitigates this barrier by clarifying that upon transferring jurisdiction from a juvenile court to a district court, new filing fees and other court costs shall not be assessed against the parties. And you'll note that the fiscal note says that there will be no fiscal impact of that change. The two other small changes in LB708 provide that the juvenile court shall obtain child custody decrees from foreign jurisdictions when necessary and feasible through the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act and makes a small change that is coming around in an amendment. The amendment clarifies that when paternity is established in an alternative way--through the signature of a...through signing a form and that process that's established in the statute--that's another circumstance in which a bridge order might be appropriately proved. So I'd be happy to answer any of your questions. I know that Kim Hawekotte from the Children's Commission, who is the chairperson of the Legal Parties Taskforce, is here to answer any technical questions you have, as well as I think we have the support of Corey Steel from the court system. I'm not sure if he's been able to stick around. I'm happy to answer any questions but wanted to make those technical changes to build on the progress from last year. [LB708]

SENATOR EBKE: Any questions for Senator Bolz at this point? Okay. [LB708]

SENATOR BOLZ: Thank you. [LB708]

SENATOR EBKE: First proponent. [LB708]

KIM HAWEKOTTE: (Exhibit 5) Good afternoon, Senator Ebke and members of the Judiciary Committee. My name is Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I am the executive director of the Foster Care Review Office, and we're here in support of LB708, and along with a couple other various hats that I wear with various committees. As Senator Bolz said, last legislative session the FCRO was a strong advocate for the passing of LB180. That has been codified in the Nebraska Revised Statutes. It's 43-246.02 which created the bridge order process. And I think the easiest way to explain the bridge order process is to give an example of how that...a case would come into juvenile court and what this would apply to. When a case comes into juvenile court, it's usually an abuse or neglect allegation against the custodial parent. At that time, sometimes we know who the noncustodial parent is, sometimes we don't, but then we do have those cases where the noncustodial parent steps forward. Investigation is done. They are determined to be safe. The children are placed with that noncustodial parent, but then we can't do anything in juvenile court because of a custody issue. And that's what the bridge orders were designed to do was to say, no, juvenile court, you will give custody to the appropriate party and then it will be transferred to district court in order for that decree then to become law. It also then

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Transcriber's Office

Judiciary Committee
January 24, 2018

provides a mechanism for the noncustodial parent to be able to go into district court and change custody and modify, just like any other domestic proceedings. What we have found in...since this all went into effect in July, first, this process is being used statewide, is being used very effectively statewide, and it's kind of had three effects, positive effects on the system that's a benefit to both children and families. First, we've improved the outcome for kids by allowing them to reach permanency sooner. Kids grow best in families. We need them with their families and we need them with their families as soon as possible. Second, it's provided relief for counties because it's eased congested court dockets; it's also closed cases sooner so that you're saving on legal fees and everything else for the counties. Third, it's provided relief for the state by easing the caseloads of case managers and being fiscally responsible for the state to provide for needy families. What this current bill does is to clarify three main things, first, that there would not be a filing fee when that order from juvenile court is transferred to district court. There was some confusion and Senator Bolz did a nice job of setting that out. Second, we did run into situations where that custody order might not have been from the state of Nebraska but, rather, from another state. Most of the states in our nation do have the Uniform Child Custody Jurisdiction and Enforcement Act and we are one of them, so it would allow us to give full faith and credit for a divorce decree in another state to then be transferred here to Nebraska so that we can proceed forward with regards to custody. Third, one area that we did forget, and that is what is handled by the amendment, is one of the ways in Nebraska by which paternity can be established is through an acknowledgment of paternity signed by the biological father, and that's all set out in 43-1409. Would you like me to finish? [LB708]

SENATOR EBKE: Yeah, go ahead. [LB708]

KIM HAWEKOTTE: It's all set out in 43-1409. But there has become some issues with some courts if that should also be covered under bridge orders, and it's my position that it should be because that is a legal establishment of paternity. We just did not specifically state it in a statute and this is just clarifying that it should also apply to those cases. Thank you, Senator Bolz, for your leadership, and the Judiciary Committee and each of you for your support last year. I'm here for any questions if you have them. [LB708]

SENATOR EBKE: Any questions? Guess not. Thank you. [LB708]

KIM HAWEKOTTE: Thanks. [LB708]

COREY STEEL: Senator Ebke, members of the Judiciary Committee, my name is Corey Steel, C-o-r-e-y S-t-e-e-l, and I am here in support of Senator Bolz's amendments to...and LB709 (sic). I'm not going to repeat anything that Senator Bolz or Kim Hawekotte has said, but we also are in support of this and came to Senator Bolz with the request because we did not want court fees

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

Judiciary Committee
January 24, 2018

jumping from one court to the next to be a hindrance for families to bring their case in front of one judge. The Supreme Court Commission on Children created a subcommittee to look at this piece of legislation as it was implemented last year in the bridge orders and to create consistent bridge orders for our judges across the state. And one of the things that came up as we were discussing this was that hindrance. We do not want families to have to pay twice when they're involved in the court system, so we look at this as a help to those families that are within our court system. So we asked Senator Bolz if she would introduce the amendment and then we also have no problem with the amendment that Kim Hawekotte has also requested. So I'm happy to answer any questions that you may have. [LB708]

SENATOR EBKE: Questions for Mr. Steel? I see none. Thank you for coming today. [LB708]

COREY STEEL: Thank you. [LB708]

SENATOR EBKE: (Exhibits 1 and 2) Other proponents? Are there any opponents? I see none. Is there anybody to testify in the neutral position? I have two letters of support: one from David Newell, PromiseShip, and another from David Newell of Nebraska Children's Commission. Senator Bolz. Senator Bolz waives. That concludes the hearing on LB708. We will proceed with LB714 and Senator Howard. [LB708]

SENATOR HOWARD: (Exhibit 4) Good afternoon, Senator Ebke and members of the Judiciary Committee. I have to say I had almost asked to switch with Senator Bolz, and she promised she had a testifier and a half and she was totally accurate about that. So my name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9 in midtown Omaha. Today I bring before you LB714. It's a bill that clarifies and sets out the procedures for judicial emancipation of a minor in Nebraska statute. Currently Nebraska doesn't have any statutes specifically for procedures of emancipation of a minor and most guidance resides in case law. My bill provides a specific path in statute for the court to follow, and it allows a minor who is at least 16 years of age to file on their own behalf, which is currently not allowed. This has been the subject of proposed legislation before, most recently in 2007 when then-Senator Phil Erdman sought to create a specific process of judicial emancipation for minors who are at least 16 years of age and that bill failed to pass. Although for some of you who are on the committee, this will sound very familiar because in 2016 we had an interim study and an interim study hearing, a resolution, LR523, which examined this very issue. And it was really focused on child welfare because our age of majority is 19, but most juveniles stop qualifying for services at 18 and so we were really looking at public benefits and child welfare. This is just specifically around a judicial process. There may be many reasons and situations that would cause a minor to seek emancipation. And the basis for this bill came about when my office was contacted by a young woman who is here today and she found herself in a difficult situation. Spoiler alert: She is also a Duchesne alum,

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Transcriber's Office

Judiciary Committee
January 24, 2018

which I'm very proud of. She'll be here to testify today and tell you why it's so important that a minor have a clear path to emancipation and it really would have proved extremely helpful in her situation. Faith's story specifically has to do with the child welfare system, but many kids who seek to emancipate are teens who have been on their own for a while supporting themselves and don't have the backing of an adult when it comes to making decisions that you're not allowed to make when you're a minor, something simple like opening a checking account or signing up for a loan to buy a car or some healthcare decisions. Currently, 21 states offer minors some ability to initiate proceedings for emancipation and usually set a minimum age to do so. Some permit the court to appoint a guardian ad litem or investigator to provide evidence regarding a minor's financial means and whether they may be considered truly independent. Nearly all the states that permit emancipation of a minor by court filing have set statutory requirements regarding financial and personal independence, findings that the court must make prior to ordering a legal emancipation. In Nebraska law, the only thing spelled out is that minors are considered to be legally adults if they marry. Our case law does provide some guidance, but one of the major issues is the case must be brought to the court by an adult. Typically, those cases are brought by parents seeking to end child support obligations. My bill, LB714, has three factors that a judge will consider for emancipating a minor. First, whether the minor is substantially able to support himself or herself without financial assistance; whether the minor is sufficiently mature and knowledgeable to manage his or her own affairs without the guidance of a parent or a legal guardian; and finally, whether emancipation is in the best interests of the minor. The minor must be at least 16 years of age, married, or living apart from his or her parents or legal guardians and is a legal resident of the county they reside in. The emancipation procedure in LB714 would take place in the district court. The bill sets out certain guidelines for notification that must be served upon parents, legal guardians, or if they cannot be found, published in a newspaper the same way, for instance, if you were trying to change your name. I believe that instances such as the situation you will hear about from Faith are not the only ones, and that there are many people who could benefit from a way of becoming legally emancipated. As a note, I do have an amendment which will be modified--sorry, pages--from the Nebraska Bankers Association regarding financial responsibility and I believe they are coming in neutral. The other two items that came up just today, because I believe that's how it happens sometimes, is the Bar Association has approached me about some procedural issues that they...procedural concerns and pieces that they feel should be a part of this statute, which I'm happy to work with them on. I believe they're coming in, in neutral. And then I understand that the Catholic Conference has also sent you a letter in opposition because they are under the impression that this would allow for a way for somebody to go outside of the bounds of our judicial bypass process for a teenager who would like to have an abortion. So they believe that you would emancipate rather than have a judicial bypass. Now a judicial bypass does call for an expedited hearing. There's nothing in here that would call for that so I could see...I have some difficulty with their argument. But I'm happy to try to answer any questions you may have. You'll be hearing from Faith and I think that's it. Thank you. [LB714]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR EBKE: Questions? Senator Chambers. [LB714]

SENATOR CHAMBERS: With the way the bill is drafted, the safeguards for the juvenile... [LB714]

SENATOR HOWARD: Right. [LB714]

SENATOR CHAMBERS: ...for the young person... [LB714]

SENATOR HOWARD: Right. [LB714]

SENATOR CHAMBERS: ...as well as relationships between that young person and the rest of the world, there will not be a willy-nilly, capricious granting of orders of emancipation in my opinion. There are specific reasons stated as to why and how this can be voided should the circumstances warrant it. This amendment says in layperson's terms that if certain obligations are contracted by that person while in the state of being emancipated, should that status be voided, that obligation will not go away at the same time. And that will prevent any scheming people, I don't mean from the young person's side, who might use the young person to gain something and then have the young person's emancipation status laid aside; but the benefits that had accrued to this maybe mean, venal adult, excuse me, there could be no benefit from that. Just one comment. I know of situations where young girls, younger than 16, would have a parent in the home, young brothers and sisters, and I (inaudible) that young girl be the parent for those children, but the parent of the parent who has lost her way also. I think this is a very well-written bill. I think it recognizes a reality and it brings things out in the open and will benefit society and those who are affected by it. So once again, Senator Sara Howard, that nice exterior does not mean there is not a very well-oiled, functioning brain carrying out its operations. So I applaud you for this. [LB714]

SENATOR HOWARD: Thank you, Senator Chambers. You have successfully made me blush today, so thank you. (Laughter) [LB714]

SENATOR EBKE: Any other questions or comments for Sara Howard, Senator Howard? Okay. First proponent. [LB714]

FAITH WALKER: (Exhibit 5) Hi. My name is Faith Walker, F-a-i-t-h W-a-l-k-e-r, and I am testifying today on behalf of myself in support of LB714. I grew up in an abusive home. I can easily detail what I've gone through and the strange path that my life took, but it's a long story and the part that matters today is what happened when I turned 18. I turned 18 in 2015. I was

entering my first year of college. I hadn't lived with my parents in more than a year, I hadn't spoken to them in just under a year, and I was well on my way to a stable lifestyle. I had my own house, a job that could support my living expenses and was flexible enough to allow for my class schedule, and the support of the Daveys, a family in Omaha that would help me out in a tight spot. Everything was going right until my parents didn't want it anymore. They pulled a series of scare tactics on me over the course of the year. Two of them involved police. They no longer knew where I lived, so they stalked the bakery that I worked at--a job that I had had for a year and a half--and waited until I was alone. One day when my car was the last one in the lot and the store was empty, they blocked the exits and waited for me to leave. Instead, I called the Daveys and a few friends who came. And when my parents realized I wasn't going to be very easy to kidnap, they called the police. When the police arrived, they got a grasp of the situation--that I was independent, I was going to school in just a week, that I was terrified, that I was a minor, and that my parents wanted me to go with them immediately. The police listened to my parents above my pleas for help, and forced me to get into my parents' car. On that ride as well as regularly in the past, my parents threatened my physical well-being, my education, and my freedom. They said I would never go back to school; I would never get away from them again. I was able to get away the next day, but I will never forget begging a police officer for help and, instead of being offered sympathy or safety, being told that I should have reported my parents sooner. For the next few months, I laid very low. I stayed home as much as possible, I got a new job on UNO's campus, I avoided places where they might be looking for me, and I tried to keep myself safe and out of their power. My efforts were in vain. On New Year's night, my parents called the police again and reported that I had run away and that they feared for my safety. I got a call from an administrator at Omaha's Police Department saying that they had to perform an in-person safety check or that a warrant would be released for my being taken into custody at first opportunity. I'm going to skip ahead a little bit in the story so that I can get the last bits. After the two incidents that involved the police, I was really scared for my safety so I got the name and number of a lawyer named Aimee Melton, who is here today. She agreed to help me. In addition to being a lawyer with a specialty in family and divorce law, Aimee was a city councilwoman with a record of advocacy for women. She initially planned to file for a protection order, which is a pretty simple process, but soon found I was ineligible due to my minor status. The next step was filing for emancipation, which she found out that was absolutely not possible under any circumstances. I was a sitting duck with no opportunity to protect myself. Aimee didn't give up though. She is a very creative and powerful lawyer and she filed...she essentially filed a civil suit suing for my emancipation. I think that I would have been emancipated and it would have helped me a lot. But other 18-year-olds aren't as lucky. They don't have the resources that I would have had. They don't have the help. They don't have the network. They don't have a very intelligent and driven lawyer to help them out. They're sitting ducks and they need a lifeline. [LB714]

SENATOR EBKE: Thank you. Questions? Senator Chambers. [LB714]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR CHAMBERS: With a little work, this might make a good short story or even a good one-act play. [LB714]

FAITH WALKER: (Laugh.) [LB714]

SENATOR CHAMBERS: It's incredible but I'm glad you came. [LB714]

SENATOR EBKE: Anyone else? Thank you for being here today. Next proponent. [LB714]

AIMEE MELTON: Hello again, Chairman Ebke, Senators. I'm Aimee Melton, A-i-m-e-e M-e-l-t-o-n. I first want to say that the person who deserves all the credit here is Faith Walker. She might be one of the most incredible young women I have ever met. From the moment she walked into my office and told me her story, Senator Chambers, you're absolutely right, this would make a short story, one-act play. But also in addition to how incredible she is at just such a very young age, she's the one responsible for getting this here. I had nothing to do with that. Faith did all of this work in contacting her legislator and getting Senator Howard, and I want to thank Senator Howard for doing this. But at such a young age, the fact that we're here today and that we have what I believe is an extremely well-written bill in front of all of you today is because of Faith Walker. But there are many, many more Faith Walkers. They might not be quite as intelligent and have the drive that she does, because she's pretty amazing, but there are quite a few more. In my role as a family law attorney working with a lot of juvenile court attorneys, guardians ad litem, I have heard this is a repeated problem. When these kids turn 18, the system turns them away. They're still minors until they're 19. I understand there may be some circumstances even at 16, 17 where you have kids that are graduating from high school early. They do have bad family lives. They may have been in the system for quite some time and the system hasn't really helped them. I think the way this bill is written there's definitely things in there where judges...they're going to have to prove that they are able to take care of themselves. I think there's protections in this law. I was very concerned to hear that the Catholic Conference was...wrote something in opposition. For any of you who don't know me, I am a Catholic. I am extremely pro-life. I will be at the March on Saturday. Senator Chambers, I work to protect kids from the moment of conception until they're 19 at this point; and I will do it equally all the way around. I think that the Catholic Conference may have this confused. There already is a statute. Whether I like it or they like it or not, it's judicial bypass. This bill I think would take too long to help anybody that is wishing to get an abortion and especially without their parents' knowledge. This bill requires that you serve your parents or your guardian and make them known, gives them an opportunity to answer, or publication. So I don't think that this bill in any way would assist anyone in attempting to get an abortion under the age of 19 or without parental consent. We already have that. So I see my light is up. I will yield to any questions that you may have, even if it's procedural or in my role as a family law attorney. [LB714]

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

Judiciary Committee
January 24, 2018

SENATOR EBKE: Questions for Ms. Melton? Senator Chambers. [LB714]

SENATOR CHAMBERS: Not just for legislators, but for society at large, it helps a great deal when you're dealing in what might be called a sensitive or touchy area, socially speaking, to have at least one concrete example to show where this that you're asking for has worth, not staged, not put up, not...it's not an act. So I am glad that this was done. I've been in favor of something like this; but never having really thought it through, I don't know that I could have drafted a bill like this. Maybe I could have gotten something along that line. But I think this was very well handled by everybody who has been a part of it. [LB714]

AIMEE MELTON: I would agree. It was very tricky trying to come up with a complaint with no statutory basis and that's what we need here. We need to have the statutory basis to be able to file this. Had her case actually proceeded to trial, I would have lost the case. We were fortunate enough that after serving her parents they showed up for a temporary hearing and they did not have an attorney to make any arguments and they conceded to basically a temporary order that we had in place until she turned 19. So we were somewhat fortunate in how this turned out legally. In order to actually be successful, we need the...lawyers need the statutory basis to file for people like Faith and people like Faith. [LB714]

SENATOR EBKE: Senator Krist. [LB714]

SENATOR KRIST: So you're a good bluffer? [LB714]

AIMEE MELTON: No. I believe that I had to be a...Judge Randall kind of questioned me on that too. But I said, because emancipation is used in child support law, I was going to make the argument that our state does recognize emancipation. It's a long shot, but I was going to make the argument. [LB714]

SENATOR KRIST: It worked or would have worked. [LB714]

AIMEE MELTON: It got us through at least the temporary order. [LB714]

SENATOR KRIST: Thank you. [LB714]

SENATOR CHAMBERS: Sometimes somebody like Senator Krist needs a translator when...in "Kristese," bluffer...he said, "good bluffer." That translates "good lawyer." (Laughter) [LB714]

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Transcriber's Office

Judiciary Committee
January 24, 2018

AIMEE MELTON: I don't know if I want to go into... [LB714]

SENATOR KRIST: Yeah, that's what I meant. [LB714]

AIMEE MELTON: I don't know if I want to go into the weeds on this (inaudible) lawyer. [LB714]

SENATOR EBKE: Senator Pansing Brooks, did you have a question? [LB714]

SENATOR PANSING BROOKS: Yeah. [LB714]

SENATOR EBKE: Okay. [LB714]

SENATOR PANSING BROOKS: I just didn't know if you were letting her go. [LB714]

SENATOR EBKE: I'm not going to let her go yet, but I do want to clarify we did not receive any letters from the Catholic Conference or anyone else in opposition, so, Senator... [LB714]

AIMEE MELTON: Well, maybe after today you won't receive one. I'm hoping... [LB714]

SENATOR EBKE: Maybe we won't have (laugh). [LB714]

AIMEE MELTON: Hopefully they'll reach out to me. I would love to have a conversation with them about this bill. [LB714]

SENATOR EBKE: Senator Pansing Brooks. [LB714]

SENATOR PANSING BROOKS: Thank you. Thank you for coming, Ms. Melton. We're glad to have you here. And we're also glad to work with your sister as one of our colleagues. [LB714]

AIMEE MELTON: Thank you. She's enjoying it and enjoying working with all of you. [LB714]

SENATOR PANSING BROOKS: And for those of you who don't know, this is Senator Thibodeau's sister. So anyway, what my question was, have other states passed something like this? Are we slow to the draw? Do you know about that or...? [LB714]

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Transcriber's Office

Judiciary Committee
January 24, 2018

AIMEE MELTON: Unfortunately, I can't answer. I didn't do my research on other states. [LB714]

SENATOR PANSING BROOKS: Okay. Well, that's all right. Maybe somebody coming behind you will know. But do you know, once the judge creates the emancipation determination or judgment, I'm not sure what it is exactly, do they...is the emancipated person given some form that will allow them to go and sign contracts and things like that? Because most people wouldn't necessarily know. [LB714]

AIMEE MELTON: I think you would have a certified copy of the order. I think it would...my idea would be it would work like a decree of dissolution. [LB714]

SENATOR PANSING BROOKS: Okay. [LB714]

AIMEE MELTON: That's where, you know, because you can get your name changed on that. And so I think if you just would have a certified copy of that order that would allow you...it's an order saying you're emancipated. [LB714]

SENATOR PANSING BROOKS: Okay. So that's pretty easy. I was just trying to figure out how we... [LB714]

AIMEE MELTON: I think so. Just a certified copy from the clerk's office which costs I believe \$3.25. [LB714]

SENATOR PANSING BROOKS: Okay, perfect. Thank you very much. [LB714]

SENATOR EBKE: Other questions or comments? Thank you for being here. [LB714]

AIMEE MELTON: Thank you. [LB714]

SENATOR EBKE: Next proponent. [LB714]

JULIET SUMMERS: (Exhibit 6) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s, and I am here today on behalf of Voices for Children in Nebraska to provide support for LB714. All youth deserve the opportunity to grow into strong and independent adults. We support this bill because it provides one piece of a puzzle to protecting older, mature teens who may be vulnerable to

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

Judiciary Committee
January 24, 2018

loopholes in our state's child protective response. As you've heard today from Faith, our age of majority is 19, but we have a piecemeal response when it comes to how 18-year-olds should be treated by our Child Protective Services. Her compelling story outlines the lack of protective response available when an 18-year-old is seeking to escape from an abusive home life. You've also heard from Aimee Melton on Nebraska's difficult case law, lack of statutory authority when it comes to emancipation and the current lack of a clear and direct legal course for a minor to take in order to formally file. This bill would provide that clear course. At Voices, we do strongly believe that work still needs to be done to close the gap between the age when a child protective response can be initiated and our older age of majority. And we did testify in the interim study regarding another path we could take to do that. We do believe that today's bill is one important piece of the puzzle. So by offering a statutory avenue for minors to seek emancipation through filing in the district court, those truly independent teenagers like Faith could avoid that dangerous loophole year between 18 and 19 and support themselves without resorting to system involvement. Currently there is not that authority for a minor to file. And without doing so, less creative lawyers than Ms. Melton might be chilled from taking action on their behalf. Judges might refuse to hear such proceedings, less imaginative judges than Judge Randall. And vulnerable youth may be the least likely to understand what, if any, choices they have in that situation. To answer your question, Senator Pansing Brooks, at the time of the interim study last year, the year before, 21 states offered some statutory avenue for emancipation, usually when they did, setting a minimum age to do so. And as the senator noted in her introduction, some require a guardian ad litem or investigation, that most require some kind of findings. We believe that this bill that's been drafted and brought for you today is very clear in what its requirements are, and it's not going to open the floodgates to young people who just don't like their families' rules. We probably wouldn't be in support of it if we thought that it might do that. It also has a provision in there clarifying that it's not going to affect any status of the youth for the purposes of the juvenile code so this isn't intended to create a work-around to get out of juvenile court proceedings, at least not this year. So we thought that was an important protection, as well, to make sure that kids are getting the services they need in juvenile court and that a district court wouldn't make this finding without knowing that there was something happening in the juvenile court related to that child and family. And I believe in light of all of these protections that this bill opens, you know, a small window, an important window to protect young adults who are very mature and can take care of themselves and should be able to, like Faith. So we thank Senator Howard and thank this committee for all your time, and I'd urge you to advance it. I'd be happy to answer any questions. [LB714]

SENATOR EBKE: Thank you, Ms. Summers. Any questions? Okay. Thank you. [LB714]

JULIET SUMMERS: Thank you. [LB714]

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Transcriber's Office

Judiciary Committee
January 24, 2018

SENATOR EBKE: Are there any other proponents? Are there any opponents to LB714? I see none. Anybody testifying in a neutral position? [LB714]

JERRY STILMOCK: (Exhibit 7) Madam Chair, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska Bankers Association, in a neutral capacity. As Senator Howard explained during her introduction, we contacted her earlier on so there would be an opportunity to submit an amendment that goes to the issue of emancipation is granted, that person would be able then to go out and contract, incur liabilities. And with the possibility of that emancipation being voided by the bill, we were able to visit with her and, therefore, she submitted the amendment, which we appreciate she doing, in order to rectify that gap, if you will, the hole that would have been presented had that language not been submitted to the committee. That's my message this afternoon. And unbelievable, Faith Walker, I'll just leave it at that. And thank you, Senators. [LB714]

SENATOR EBKE: Mr. Stilmock. Any questions? Senator Chambers. [LB714]

SENATOR CHAMBERS: Mr. Stilmock. [LB714]

JERRY STILMOCK: Sir. [LB714]

SENATOR CHAMBERS: If there's any way that water could go through an opening, somebody who is a banker or works for the banker will find that opening and plug it if by not plugging it bankers would lose something. So the fact that this makes it all right with the bankers, this is all right. (Laughter) [LB714]

JERRY STILMOCK: Senator Chambers, you're going to make me blush. (Laughter) [LB714]

SENATOR EBKE: Okay. Thank you. [LB714]

JERRY STILMOCK: Thank you, Senators. Good evening. [LB714]

SENATOR EBKE: Other neutral testimony. [LB714]

BUB WINDLE: Chairperson Ebke, members of the committee, my name is Bub Windle, B-u-b W-i-n-d-l-e, here on behalf of the Nebraska State Bar Association in a neutral capacity on the bill. As Senator Howard said, our membership just kind of had some procedural issues that they wanted to just kind of flesh out. This is kind of born from attention of recognizing that we need

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

Judiciary Committee
January 24, 2018

an avenue for this, that there isn't the statutory avenue, as you've heard, so far; but that on the other hand, it is a process with significant gravity. And there are short-term and long-term consequences in kind of making sure that some of those procedural aspects are fully vetted. As Senator Howard said, we spoke to her today. I apologize for the late notice. Sometimes your schedules simply outpace our legislative review with the Bar Association and the number of people that get eyes on various bills. But we do have a working group formed with practitioners in this area, both juvenile law and family law, and so we're looking at it. Senator Howard gave us a time line so we will work with her to get some specific language to her and then in front of you all. So with that, I can answer any questions. [LB714]

SENATOR EBKE: Thank you, Mr. Windle. Senator Chambers. [LB714]

SENATOR CHAMBERS: In the past, I've been critical of the Bar Association, the judiciary, and so forth. But I feel so good about this bill that I am glad the bankers had their input, that the Bar Association has its input so that it won't seem like people such as myself are supporting a piece of feel-good legislation and because it makes you feel good, you forget the practicalities that go along with it. And I know with the eagle eye of the banker, with the microscopic eye of the lawyer we have covered the waterfront. And I think when this bill comes to the floor it will be almost impossible for anybody to say this is something that ought not to be done because of this, that, and the other. So I'm glad that you testified today in the right way. [LB714]

BUB WINDLE: Thank you. (Laughter) [LB714]

SENATOR EBKE: Any other questions? Thank you for being here. [LB714]

BUB WINDLE: Thanks. [LB714]

SENATOR EBKE: (Exhibits 1-3) Are there...is there any other testimony on LB714? We have, Senator Howard...we have three letters for the record, all in support: one from Mary Bahney of the National Association of Social Workers-Nebraska Chapter; one from Sarah Helvey of Nebraska Appleseed; and one from Scout Richters, ACLU of Nebraska. Okay. [LB714]

SENATOR HOWARD: I just want to thank all of you for your time and attention for this issue. As a point of clarification, my good friend Marian from the Catholic Conference said that they decided not to come in at all on this bill after conveying their concerns to me today, which I very much appreciate. Senator Pansing Brooks, to your question, there are 21 other states that have this type of judicial emancipation; and I will provide you with a beautiful chart because I've never met a spreadsheet I didn't like. And as Mr. Windle mentioned from the Bar Association, I

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

Judiciary Committee
January 24, 2018

did give them a time line so I want to make sure that we have a full amendment to the committee for your consideration so that we can get this out on the floor in time for priority. So I very much appreciate your time and attention. I'm happy to try to answer any questions you may have. [LB714]

SENATOR EBKE: Questions for Senator Howard? [LB714]

SENATOR CHAMBERS: I can't let a good thing go but I'm not going to kill it. This action will demonstrate to some of my conservative friends who may be doubters when I say things on the floor of how if women would consolidate the power, the intelligence, and the drive that they're capable of, things can change. This bill was brought by women and that doesn't mean men couldn't. The fact is that men didn't. And by these kinds of actions, I will bet younger women will be encouraged to participate in a way that maybe they've been reluctant to before because they thought it's territory that's verboden to women. And even though they'd like to get involved, maybe they shouldn't. Every step in the right direction is worthy of noting. And that's why I'm kind of gushing this afternoon. I ordinarily don't do this, but for people who don't know anything about my personal life, my mother was a woman, which anybody could probably conclude unless they thought I was just hatched out somewhere on a rock. But I have three sisters. I have many nieces so I'm very familiar with all of the problems, all of the issues that could befall women. I had an older sister, two younger sisters. My nieces are all younger than I am. My sister and I got along very well. My mother and I got along very well. I don't know what the reason was, but my grandmother favored me when I was little. And I couldn't figure why because she had a very stoic and almost glacial exterior. But when she was around me, there was a little bit of melting that took place. I don't know the reason for it today, and I hope that things like this will be the harbinger of similar things to come and even on a bigger scale. So I applaud all of you for what you've done. And it's going to be a good, practical result in addition to all the things that I've said. Thank you. [LB714]

SENATOR HOWARD: Thank you, Senator. [LB714]

SENATOR EBKE: Any other questions or comments? Thank you, Senator Howard. [LB714]

SENATOR HOWARD: Thank you, Senator Ebke. [LB714]

SENATOR EBKE: This concludes the hearing on LB714. Senator Krist. We will start with LB670. [LB714]

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

Judiciary Committee
January 24, 2018

SENATOR KRIST: Good afternoon, Senator Ebke and members of the Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District: northwest Omaha, along with north-central portions of Douglas County, which includes the city of Bennington. I appear before you today in introduction and support of LB670. LB670 relates to the amending and streamlining of the Juvenile Services Act. It would change provisions relating to the membership, powers, and duties of the Nebraska Coalition for Juvenile Justice. LB670 would also eliminate the position of coordinator for the Nebraska Coalition for Juvenile Justice; it would harmonize provisions; repeal original sections; and outright repeal section 43-2413. Because an emergency is declared in this bill, this would take effect when passed and approved according to law. I think this is an excellent candidate myself for consent calendar. I also think that it could be added to our list of things that we want to compile and in the way of juveniles, juvenile justice. The coalition has done a wonderful job, and streamlining and downsizing a bit I think is in order. With that, I'll take any questions. [LB670]

SENATOR EBKE: Any questions for Senator Krist? I see none. First proponent. [LB670]

CASSANDRA BLAKELY: Is it official? Can I say good evening, Senators? [LB670]

SENATOR EBKE: It's...you can say good evening now. [LB670]

CASSANDRA BLAKELY: (Exhibit 3) Yes. I get to be the first to do that. My name is Cassandra Blakely, C-a-s-s-a-n-d-r-a B-l-a-k-e-l-y. I come before you as the current chairperson of the Nebraska Coalition for Juvenile Justice, my second term in that position, to voice my support for LB670. As Senator Krist said, it's a very straightforward piece of legislation that changes the membership and so, as such, my testimony will be equally brief. LB670 makes a few small adjustments to our core membership while reducing duplicative positions. It allows the NCJJ to continue its advisory and oversight duties that are outlined in statute. The NCJJ includes committees focused on diversion, state grants, and community planning. Additionally, the NCJJ has worked to collaborate with the Children's Commission's Office of Juvenile Services Committee to stay abreast of current efforts around juvenile justice and provide annual reports to both the legislative and executive branches. The NCJJ's membership as outlined in LB670 focuses on voices from a range of direct service professionals. Exciting for me as someone who spent her entire career in youth engagement, and especially youth engagement of underrepresented populations, this allows for no fewer than five members to be appointed under the age of 24. So it does very much endorse the voices of young folks, particularly young folks who have experience with these systems, which I think we don't do enough of across the board. It also then adds to the on-the-ground perspective of practitioners, as you mentioned in an earlier...as was mentioned in some earlier hearings. So with that, I will respectfully ask the

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

Judiciary Committee
January 24, 2018

committee to support LB670 and move it on to General File. Thank you for the opportunity to speak and I'm happy to answer any questions about the coalition with this bill. [LB670]

SENATOR EBKE: Questions for Ms. Blakely? I see none. Thank you. [LB670]

CASSANDRA BLAKELY: All right. Thank you very much. [LB670]

SENATOR EBKE: Next proponent. [LB670]

MAUREEN MONAHAN: Good evening, Senators. Maureen Monahan, M-a-u-r-e-e-n M-o-n-a-h-a-n. I'm here on behalf of the State Bar Association. The State Bar is in favor of this bill. It is a retooling of the coalition. As you know, the federal funding is now...it has dwindled so much it's basically now Douglas County gets it. The retooling of this coalition allows for millions in other grants to be funneled to different counties and towns around the state. We want to keep that because juvenile justice does not work without having additional funds and services and it's great to have additional grants so we don't always have to come to you to ask for that money. So we are in support of this bill. [LB670]

SENATOR EBKE: Okay. Thank you, Ms. Monahan. Any questions? [LB670]

MAUREEN MONAHAN: Thank you. [LB670]

SENATOR EBKE: I see none. Thanks. Are there any other proponents? Do we have any opponents? Do we have anybody testifying in a neutral capacity? [LB670]

CHRISTINE HENNINGSSEN: Sorry to make you sit down there, Senator. Good evening. My name is Christine Henningsen, C-h-r-i-s-t-i-n-e H-e-n-n-i-n-g-s-e-n. I just want to take this time to note that a lot of the changes to the Coalition of Juvenile Justice are because our state decided to forgo going after Title II funding, so, forthwith, \$400,000 in federal money that could be used for juvenile services, our Governor chose not to support that. Also, the changes in this eliminate the requirement that they're monitoring the four core requirements of the Juvenile Justice and Delinquency Act, that being the deinstitutionalization of status offenders, separation of juveniles from adult inmates, the removal of juveniles from adult jails and lockups, and addressing disproportionate minority contact. So with these changes, there's no one who is charged with that oversight of those things and I think that's very important for everyone to recognize. My hope is that we would go after the Title II funding the next three years around, but that would cause us to make another change to the statute. I'd also ask you to look closely on the change in membership. Actually, this changed current membership of five persons who are under the age

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

Judiciary Committee
January 24, 2018

of 21 and reduced that to one. So actually, youth voice is decreased in this amendment, though, if their only charge is reviewing community-based aid grants, I don't know if that's as big of a deal. I'm a big--huge--supporter of community-based aid grants. I want to do nothing to jeopardize those things. But I do want to make the committee aware that this is not a simple bill and it does have effects on our ability to get Title II funding in the future and also on our oversight of those four core requirements. And I'll be happy to answer any questions. [LB670]

SENATOR EBKE: Thank you. Any questions? I see none. Thank you. [LB670]

CHRISTINE HENNINGSEN: Thanks. [LB670]

SENATOR EBKE: (Exhibits 1 and 2) We have one letter in support...or two letters in support, one from Larry Dix of the Nebraska Association of County Officials, one from Kim Hawekotte of the Foster Care Review Office. Senator Krist. [LB670]

SENATOR KRIST: Okay, a quick closing. First of all, I want to thank Cassandra Blakely for all the hard work she has put in. I want to thank the past members of the NCJJ and all the work that they have done. And I can assure you, when I'm elected Governor, we will again go after Title II because I think it is an important part of what we're doing, but we have no choice at this point. That Title II money has gone away and the decision has been made that the cost of doing business and monitoring Title II was not worth the money that we were getting. I vehemently disagree. Both Corey Steel and I had private conversations with Mr. Fisher and with the commission and with NCJJ trying to keep Title II in place, to no avail. We do have a documentary kind of responsibility and tracking responsibility that exists already in law and Anne Hobbs and her folks at the Justice Institute are keeping track of data and they are in...they-- Senator Vargas, who is taking my place on JDAI, and Mr. Steel--are in negotiation again with the commission to make sure that they are tracking those mechanisms and that there's good data coming out. So I thank Christine for her notation on the issue, but we deal with the cards that we are played and sometimes it's necessary to do this. So I thank you for your time and attention on LB670. [LB670]

SENATOR EBKE: Okay. Any further questions? That closes the hearing on LB670. We will move to LB673, the grand finale. [LB670]

SENATOR KRIST: Good afternoon. (Laugh) Good afternoon...it's...a number of people in the room would support the fact that we are going to get out of here before 7:00. It's... [LB673]

SENATOR EBKE: I know. It's awesome, isn't it? (Laugh) [LB673]

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

Judiciary Committee
January 24, 2018

SENATOR KRIST: This is nice. [LB673]

SENATOR MORFELD: Don't ever say that until it happens. [LB673]

SENATOR KRIST: Okay (laughter). Good evening, Senator Ebke, members of Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District: northwest Omaha, along with the north-central portion of Douglas County, which includes the city of Bennington. I appear before you today in introduction and support of LB673. Now if the last one wasn't simple enough, this is really simple. LB673 relates to the Nebraska Juvenile Code and the amending of Section 43-286, which would change provisions relating to procedures for alleged violations of probation, supervision, or court orders by juveniles. The following sentence would be deleted from the court code. This is the only change to this bill and to the statute. Quote: Such preliminary hearing shall be held before an impartial person other than his or her probation officer or any person directly involved in the case. Why we would remove people who have knowledge of the issue is beyond me, but that is the change and I stand for any questions. [LB673]

SENATOR EBKE: Questions for Senator Krist? None at this point. [LB673]

SENATOR KRIST: And I'm going to waive closing. [LB673]

SENATOR EBKE: Okay. You going to leave? [LB673]

SENATOR KRIST: Yeah, why not? No, I'm kidding (laughter). [LB673]

SENATOR EBKE: You can't leave yet. Okay, do we have any proponents? [LB673]

MAUREEN MONAHAN: Maureen Monahan, M-a-u-r-e-e-n M-o-n-a-h-a-n, here on behalf of the State Bar Association. The State Bar Association is in favor of this bill. Essentially it seems to be a leftover from when this bill was amended and changed in the past and it's just caused confusion about whether a judge can even hear this issue. So just for clarity, and that judges don't start asking the lawyers what they can do because we know better than to answer those questions, we are in favor of this bill. [LB673]

SENATOR EBKE: So you view this as pretty much a cleanup? [LB673]

MAUREEN MONAHAN: Yes. [LB673]

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

Judiciary Committee
January 24, 2018

SENATOR EBKE: Okay. Any questions? Thank you. [LB673]

MAUREEN MONAHAN: Thank you. [LB673]

SENATOR EBKE: Any other proponents? Are there any opponents? Is there anybody testifying in a neutral capacity? [LB673]

SENATOR MORFELD: You guys are all just hanging around here? [LB673]

SENATOR EBKE: Everybody just wants to see what we're doing. Okay, well, Senator Krist waives, so that closes the hearing on LB673 and we'll see you all here again tomorrow at 1:30. [LB673]