

**M. HANSEN:** [RECORDER MALFUNCTION] At schools or in their neighborhoods. Law enforcement officers including school resource officers need to be able to question young people knowing the information they get from them is truthful and acquired in a way that is cognizant of how young people differ from adults. Students at school are in a unique situation if law enforcement officers need to question them since as usually rightfully assumed by the student that they are unable to leave a situation when they are speaking to an authority figure. When someone is being questioned by law enforcement and feels they are and unable to leave, that's the definition of a custodial interrogation and another level protocol should kick in at that point. Some law enforcement have reached out to me with the-- reached out to me about the desired wording changes to the advisement. And although these are based on national best practices from experts well-versed in juvenile issues and other child development issues, I'm open to continue working with everyone who comes to the table with wording that we can all agree upon and we'll continue to work with our law enforcement officers in the field. Finally, I just want to bring up the issue of parents. When we talk about juvenile justice, we often talk about the role of parents in that process. This was especially clear in past debates on bills ensuring children have the right to an attorney. The pushback is often that parents will take care of the situation. I think that ignores the current state of law when the parents are not required to be notified when a child is arrested or interrogated of what the charges are or where the child is. And in many cases find out hours later. Similarly, if a child is asking for their parents while being interrogated for a crime there is no requirement that police allow those parents in the room or even notify the child that they know where the parents are. If we do not tell parents when and where their children are being interrogated for crimes, crimes that if convicted may lead to their children serving an adult sentence, how do we expect them to be advocates for the children in the process? I think the changes we are doing here in LB391 are a measured approach that both protect the child and parent in the face of the raw power of the state in the form of our criminal justice system. All this bill does is require police to notify parents when their child is in custody, propose a more appropriate-- age appropriate-- more age appropriate process for informing the child of their constitutional rights and allow a child to ask for the parent when they've been detained. With that, I will close and be happy to take questions.

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Judiciary Committee February 14, 2019

**LATHROP:** Senator Chambers, you're recognized.

**CHAMBERS:** Senator, would you turn to page 4 of the bill if you have it with you.

**M. HANSEN:** Yes.

**CHAMBERS:** Line 23. I don't think I see a definition of exigent circumstances. I may have missed it. Is there a definition in the bill?

**M. HANSEN:** I don't believe we have an additional definition of the exigent circumstances.

**CHAMBERS:** Well, what I would suggest or I would like to see-- because I read the bill. I like it.

**M. HANSEN:** Sure.

**CHAMBERS:** But this is such a critical set of circumstances we've reached because when these circumstances exist then there are things that can take place which ordinarily wouldn't.

**M. HANSEN:** Right.

**CHAMBERS:** So maybe you can look at maybe a definition of that term.

**M. HANSEN:** Yes, I'd be happy to. My understanding of this-- and part of what we're doing that got into an interesting area with this law is we're putting in statute a lot of--

**CHAMBERS:** Can you get a little closer to the mike?

**M. HANSEN:** Be happy to. So what we're doing a lot in this bill is putting a lot of current and variations on current Supreme Court case law into statute. And so that's where some of the terms and definitions are more understood and defined in case law. And so the question was how much to put in statute? But I'd be more than happy to clarify terms like that.

**CHAMBERS:** That's all I have. Thank you.

**M. HANSEN:** Thank you.

**LATHROP:** Senator Slama has a question for you.

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Judiciary Committee February 14, 2019

**SLAMA:** And I just have, along the same line of Senator Chambers' questions, a definition question. So relative, is there a definition or limitation provided for what a relative is?

**M. HANSEN:** No, not at the moment.

**SLAMA:** OK. So that could be somebody who's a minor as well under that. Right? Since it's not--

**M. HANSEN:** I, I would say as we've currently written it probably would apply to another minor, yes.

**SLAMA:** So my big concern with that is, is we've got a kid who knows how to play the system, is involved in a crime or is accused of a crime with somebody who's a relative-- maybe it's a cousin, and they can demand to speak with that relative in private and get their stories straight without any supervision of law enforcement officials. Do you see where I'm at here?

**M. HANSEN:** Yeah, I do see where you going.

**SLAMA:** Is that a reasonable thing that could happen under this bill?

**M. HANSEN:** So, so my intent with that language of relative is-- I think of situations where you're, you're interrogating a child, you're interrogating an 11-year-old and they know to ask for the authority figure in their lives whoever that is. It's a parent. It's their grandparent. It's whoever takes care of them and they're asking for that person. And I wanted to be broad because I know in many instances there's people whose family members-- you know, your most trusted adult might be your aunt or your uncle or something of that nature. It is certainly not my intent for-- you know, an 11-year-old to be able to ask for their 13-year-old older sibling. And so I'd be happy to work in my language.

**SLAMA:** Thank you.

**M. HANSEN:** Of course.

**LATHROP:** OK. I see no other questions.

**M. HANSEN:** Thank you.

**LATHROP:** Thank you, Senator Hansen. Proponents can come forward. If you intend to testify as a proponent, if you wouldn't mind filling up

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Judiciary Committee February 14, 2019

the front row so we can have you jump in the chair as soon as the testifier ahead of you is over-- or done. Pardon me. Welcome.

**JULIET SUMMERS:** Thank you. Good afternoon, Chairman Lathrop and members of the committee. My name is Juliet Summers. J-u-l-i-e-t S-u-m-m-e-r-s. I'm here on behalf of Voices for Children in Nebraska to support LB391. At every stage in our justice system, we should ensure that youth are held accountable with safeguards in place to ensure that our response is measured and appropriate. We support this bill because it will provide an age-appropriate protection for youth when they come into contact with law enforcement by requiring developmentally appropriate language in giving Miranda warnings to minors and creating a new Miranda protection when a child asks for a parent or guardian. LB391 will ensure that any child's waiver of Miranda rights is more likely to be made knowingly and intelligently. It will simultaneously ensure that parents or guardians are able to know and respond immediately when a child becomes involved with a criminal investigation. We are all, children included, entitled under the constitution to a right against self- incrimination. The required reading of rights under Miranda v. Arizona is intended to balance the government's interest in investigating crimes and pursuing confessions with the citizens' interest in understanding and accessing his or her constitutional protections. A custodial interrogation by its nature can be coercive particularly if the individual under interrogation is a child. Children may be more likely to waive their rights without true knowledge or understanding of either what those rights mean or what the consequences might be. Worse, children are substantially more likely to confess falsely to crimes they did not commit. Studies of exonerations have found that though 13 percent of adult exonerations involved a false confession, 43 percent of juvenile cases did. And the younger the child the more likely the false confession. Generally, the younger the child the more likely he or she is to accept responsibility for an act they did not commit. Desiring to please or desiring to leave the child may be willing to just go along with the interrogator believing that agreement will end the interrogation sooner and make it all go away. Individuals who are unfamiliar with our justice system are often surprised to discover that police may interrogate a child without a parent's permission or even knowledge. They may not realize that custodial interrogations can go on for hours without break or contact with a trusted adult. LB391 will fix this by requiring notice. Voices for Children is strongly supportive of the provision that makes a child's request for a parent, guardian, custodian, or other relative parallel in invocation of the Miranda

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

right to counsel. In *Edwards v. Arizona*, the Supreme Court held that after a suspect has invoked the Miranda right to legal counsel a valid waiver of that right cannot be established until the suspect has had the opportunity to consult with counsel. Essentially, a suspect can't knowingly and intelligently waive a right, he's already indicated he needs help to understand. For a child who's even less likely to understand, asking for a parent or other trusted adult to be present mirrors an adult's request for an attorney. The child is saying, I need help to understand what's happening and what I should do. And under LB391, interrogation would cease until that help could arrive. So for all these reasons, I'd like to thank Senator Hansen for bringing this bill and thank the committee for your time and attention. And I would respectfully urge you to advance it. I'll be happy to answer any questions.

**LATHROP:** I see no questions. Thanks, Miss Summers.

**JULIET SUMMERS:** Thank you.

**LATHROP:** Appreciate your testimony. Welcome.

**KELLEE KUCERA-MORENO:** Hi. Thank you. Kellee Kucera-Moreno, K-e-l-l-e-e K-u-c-e-r-a hyphen M-o-r-e-n-o. I have a-- just simple-- I really appreciate the people who've worked hard on this and who knows what needs to happen. I'm sad that we even have to be discussing this now it's common sense. Just simply, I want to say that this is a matter of respect and that the children have their constitutional rights met. So when people are deciding on this bill, to step back a little bit and you don't have to worry about controlling or changing the children, you just have to know that you're-- that you follow their basic rights. Thank you.

**LATHROP:** Thank you. We appreciate your thoughts again today. One thing-- welcome. Oh, you're welcome to come forward. If you're going to testify today, this is a big room and the sound is not great. So as you get-- as you sit at the table, I think those of you that are listening will appreciate if you can make sure you're talking into the mike and that you're close enough, that helps everybody hear what you have to say including us. Welcome.

**MARGENE TIMM:** Thank you. Margene Timm, M-a-r-g-e-n-e T-i-m-m. I'm testifying on behalf of the Nebraska Criminal Defense Attorneys Association in support of LB391. I'm an attorney with the Lancaster County Public Defender's Office and have been for nearly 30 years.

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Judiciary Committee February 14, 2019

Half of that time, I've practiced in juvenile courts and I'm presently the supervising attorney of the juvenile unit. For the fiscal year 2017-2018, 90 children, 12 years old and under were placed on probation from the courts. For that same period of time, there were 172 children, 12 years old and under that were on probation supervision; 60 of those children were placed in out-of-home placements for at least one day. These numbers are from the Nebraska Judicial Branch Web site, the Juvenile Services Division analysis that was released on December 20, 2018. It's safe to assume that many of these youth were interviewed by law enforcement. In my experience, many are interviewed without parental notification and without a parent being present. However, not all of those interviews would be considered an in-custody interview. LB391 is just not about 12-year-olds, but a 12-year-old is not a 17-year-old, and a 17-year-old is not an adult. This legislative body has passed laws that recognize the now subtle developmental and scientific research. Our own Nebraska Supreme Court acknowledged this in a Miranda warning's case in 2015, In re Miah, when our court stated, quote, the growing body of research suggests-- suggesting that many of those in Miah's age group may not be able to adequately comprehend the warnings and provide meaningful waiver of rights. Miah was 14 years old. I have passed out to the committee members an actual Miranda warning waiver form from a case in our office this past summer. There's several things to note in that example. First, that Miranda waiver form is the exact same that's used by the police department for adults. The, the youth in this case was 16 years old. Second, on the surface it looks like the youth understood the warnings. As you look, he marked each question until the last one, yes. And on that last question when whether he was willing to answer questions he wrote, no and yes. And then he refused to sign it. The last thing about this case was that this youth had previously been in juvenile court so he had some familiarity with the system. This youth has twice been found incompetent. This illustrates how difficult it can be working with children in the juvenile justice field. LB391 will help all sides of those in the juvenile justice system. It will not in play-- place an undue burden on law enforcement who are already required to give Miranda warnings in a custodial interrogation. It will also help parents who want to be notified and present during a custodial interrogation of their child. And more importantly, it will help protect the constitutional rights of children before they enter the juvenile justice system.

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Judiciary Committee February 14, 2019

**LATHROP:** Very good. Thank you so much for your testimony. Senator Pansing Brooks.

**PANSING BROOKS:** Thank you. Thank you for coming, Miss Timm. First off, how old was the child who filled this out?

**MARGENE TIMM:** Sixteen.

**PANSING BROOKS:** Sixteen. OK. And you talked about custodial investigation and I know that there is a body of law regarding that, but that also custodial investigation is different for a child than it is for an adult. Such as, if a, if a child was in a school in a principal's office with a police officer they don't understand when they can leave or when they can't-- when they can or can't leave. So I do believe that we have to be more careful and err on the side of the child because the child's understanding of when he or she can defy authority and leave the situation where a police officer is talking to them is, is quite questionable there. So I, I don't know. I just-- I don't know if you have any comments about that but I, I feel like this bill is so important because it-- it's very difficult. It's much easier for an adult to say, OK, well am I under-- am I-- are you interrogating me? Am I in custody? Versus a kid who does not believe that-- most kids do not believe they have the authority to leave a police officer or a principal in this.

**MARGENE TIMM:** I would agree, Senator. It's easy to say that a juvenile is in custody if they're at the police station or they're in the back of a police cruiser but there are many situations. It's probably the second most common situation we encounter are-- it-- are interviews that take place at the school. Many times they're in a principal office there will be SROs present. Parents haven't been notified. Parents are-- you know, are not included in that. And so I do think that this bill will help not, not only help the juvenile understand their right but will also result in more parental involvement, more parental notification and it will make it easier from all sides to determine when it is a custodial interrogation.

**PANSING BROOKS:** OK, one last question. Do you know how young the kids-- the children are who are given this warning-- this Miranda warning? Have you seen how, how young they might be? Because--

**MARGENE TIMM:** To my knowledge this is the, the example that I have is the only form that the Lincoln Police Department uses so it would go all the way down to anybody they're interviewing. I believe the Omaha

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Judiciary Committee February 14, 2019

Public-- or Omaha Police Department has a modified Miranda warning waiver that came out after the passage of the last law that included developmentally appropriate language. But to my knowledge this is the only form that is used by the Lincoln Police Department.

**PANSING BROOKS:** OK. Well, the reason I'm asking is when the fourth graders come through the Capitol, I often talk to them about some of these issues and the fact that-- and I ask them if they know about the right to an attorney or a right to a lawyer. So the fact that the-- it is good that, that the Lincoln Police Department is using this. But again it needs to be simplified even farther because the fourth graders have no idea about-- I mean they've seen things on TV about the right to remain silent and but really it's still more complicated than some of the children that may come before the police.

**MARGENE TIMM:** And that's really the only change with LB391 is the Miranda warning in a more juvenile friendly way.

**PANSING BROOKS:** I agree. Thank you very much.

**LATHROP:** I see no other questions. Thank you. Next testifier, please.

**LaVON STENNIS-WILLIAMS1:** Good afternoon. My name is LaVon Stennis-Williams and I'm here to testify on behalf of LB391. I'm in support of it. I think it's a wonderful bill but it does not go far enough. I believe that there should be no conditions in which a minor child should be questioned without the parent present or custodial guardian, no different than if they were to go seek medical care. I think it's just as important a doctor cannot provide anything other than emergency care. He cannot provide any type of medical care for a child unless that child's custodial parents are present. The reason why I'm concerned about that is for two reasons. First of all, there is no, as she said earlier, there is no distinct clear defining way to determine when a kid is in custody or not. And I believe that would be manipulated. I also believe that when you use the term reasonable efforts that too will be manipulated in what will become-- what will be defined as a reasonable effort. Will you intentionally misdial a number that the kid has given you? And the other concern I have about this is that when you look at the even our disproportionate minority contact numbers in this state, oftentimes those who are at most reflected in our juvenile justice system are those coming from high-poverty, high-crime communities. Many kids lack the sophistication to know what, who, or when they should be telling the police officer who to contact. I think that would be manipulated. So

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

for these reasons, I'm, I'm suggesting that this bill is a great start but it doesn't go far enough. That the bill should be-- should include language that under no conditions will a minor child be interrogated or questioned by the police for any reason unless there's a parent or legal guardian present. Thank you.

**LATHROP:** I need to have you spell your name for us.

**LaVON STENNIS-WILLIAMS:** L-a-V-o-n S-t-e-n-n-i-s hyphen Williams  
W-i-l-l-i-a-m-s.

**LATHROP:** Senator Chambers has a question for you.

**CHAMBERS:** We've known each other many years, huh?

**LaVON STENNIS-WILLIAMS1:** Yes, sir.

**CHAMBERS:** Well, many-- I can say many-- a few years. But if you had some sample language, could you get it to me at my office and then we'll talk about it further?

**LaVON STENNIS-WILLIAMS1:** Yes, sir, I will.

**CHAMBERS:** Thank you.

**LATHROP:** OK. I think that's it. Thank you for your testimony today. Good afternoon.

**SPIKE EICKHOLT:** Good Afternoon, Chairman Lathrop and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t appearing on behalf of the ACLU of Nebraska in support of LB391. You are being given a copy of my written testimony so I'm not gonna read it and Miss Summers and Miss Timm made some of the same points that I was going to make so I won't restate those. I would just say a couple of things. Nebraska state law and case law provide that children can be present and question-- or be questioned by police without their parent being present. In the report that we prepared for the school resource officers that you were given, I think last week and you may receive today, we actually cite some of those cases in which courts have affirmed convictions that children have made in instances in which the parents were not present, were not notified. The law already requires that police need to advise a person who is in custody and who is being interrogated of their rights whether that person is a child or an adult. And what this bill does is simply have those advisements be tailored in a way that a child could understand and be more likely

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

to understand. It's similar to some laws that have been adopted in Arkansas, Hawaii, and Missouri. That form that Miss Timm distributed earlier when she gave her testimony is a standard Miranda advisement form. The police departments across the state have a version of that they give for adults and it sounds like the Omaha Police Department already has one that's tailored for juveniles. I mention that because implementing this bill with a quoted language on page 3 of the bill would be easy to do because the police department could simply just replicate that in an advisement form and read from that when they want to question a child. What's also important about this bill is that it is a recognition of parents' rights and, and that's somewhat important. I think that is important. I think many of you and many of your constituents would be frankly surprised or at least have this impression that if the police are going to question your child at school or question your child at some point that someone's going to call you first or you have some sort of right to be notified. But that is not the case. That is not the state of the law. But this, however, recognizes that. One thing that Senator Slama asked about was the provision that a request to speak to a relative along with a parent, guardian, or custodian could trigger some protective. I guess I understand that. Perhaps we could amend that to be a relative who's an adult. I understand the concern the Senator Slama have about a youth gaming the system but just to be frank if, if a person is going to game the system they're never gonna give a statement to begin with. Right? Because I have had very few cases of adult children where they have really helped themselves much by sitting down for a police interview when they've been suspected of a crime. We would urge the committee to consider the bill and to advance the bill.

**LATHROP:** Thank you, Mr. Eickholt. We appreciate your testimony today. Anyone else here to testify as a proponent?

**DANIELLE SAVINGTON:** I am, Your Honor-- or sir. Thank you.

**LATHROP:** OK. And it looks like we're at the end of proponents so if you are an opponent maybe you can come fill up the front row. Welcome.

**DANIELLE SAVINGTON:** Thank you, Senator Lathrop. My name is Danielle Savington, that's D-a-n-i-e-l-l-e S-a-v-i-n-g-t-o-n, and I'm here today to testify on behalf of the Nebraskans for Peace organization as a proponent of LB391. I work as a juvenile court attorney here in Lancaster County and I-- maybe I'm a little spoiled. I think we do a lot of things right in Lancaster County with respect to how we treat juveniles. An example of that is how when a juvenile is appearing in

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Judiciary Committee February 14, 2019

Lancaster County Court an attorney is appointed to them before their first appearance and then their parent has the opportunity to fill out paperwork to continue that appointment due to indigen-- indigency or to pay for their own privately hired counsel and I think that's something really great that happens in Lancaster County that doesn't happen everywhere. But one thing that I've learned in representing these youth is that they are completely clueless as to their rights and oftentimes their parents are as well which is why I agree with the comments that have been made by the other proponents. And I think that it could even go a step further than always including the parent to say that it would be good to always include a school social worker or someone who could make sure that everybody understands their rights because anecdotally I can't tell you how many times I've arrived with my freshly received discovery on a case to find that my client has tied up their confession with a pretty packaged bow as encouraged by their parent because their parent believes that you have to tell police the truth and tell the police what they want to hear. And as a result there's not very much that I can do to help a child and oftentimes a lot of the story, a lot of the confession that's been made is completely inaccurate. I recently had a case where a very young juvenile had confessed to participating in a group crime and the child had no idea the other names of the defendants who he supposedly was participating in with. And when asked where exactly it had taken place, he named a completely different location because he had no idea of the time reference of anything that had happened and yet he still wound up charged with what amounts to be a felony charge. Now fortunately, this child is young enough that his case remains in the juvenile court or would remain in the juvenile court. And, and so his consequences aren't as dire as those that-- you know, a 14- or 15-year-old who might be charged in this-- in the adult court. But one thing that I think is important to note is that increasingly in elementary schools and middle schools we're seeing more and more SROs and law enforcement presence. And teachers are teaching the children you have to comply with these SROs. You have to do what they say. They're there for your safety. They're there for your protection. And while that's generally true, we are imbuing our children with this expectation that they have to listen to SROs and police and they have to be obedient. Then we turn around and begin asking them questions that are against their interests. We can't be surprised when they provide whatever answer they believe is going to make the SRO, the law enforcement officer, or the investigating detective satisfied. Another thing that I've encountered with my juveniles is that they are afraid to admit that they're afraid and don't know what they're doing.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

Anybody who's ever talked to a 13-year-old who knows that they're probably about to be in trouble knows that there's a lot of bravado and a lot of reticence and guardedness and these kids simply don't understand that they have rights and that their parents can help them enforce those rights.

**LATHROP:** I have a question for you. Did I hear you say that you had some concern that if parents are involved in the waiver of the right that some parents will-- that this will work against the juvenile that the parents will say, answer the guy's questions?

**DANIELLE SAVINGTON:** That does happen and there have been many occasions when I've represented a juvenile whose parent has informed them to just tell the truth, just tell them what they want to hear. Just be compliant because the parent may be afraid of getting in trouble or the parent doesn't know the full extent of their child's rights. A lot of times parents don't understand that your child is entitled to an appointed attorney. So their fear is if you aren't telling the truth or if you do get arrested that I'm gonna have to pay for this and I don't have the money for this court drama. So a lot of times parents can inadvertently have that effect which is why I, I think that we could go even further to say that this bill should include language that explains the Miranda rights of parents with respect to their juveniles.

**LATHROP:** OK. I wondered how you were gonna split the baby on that one. Some, some testifiers have said the parents should be there. You're saying the parent can actually require that the child, lean on the child to answer questions and your solution is to inform the parents as well.

**DANIELLE SAVINGTON:** Ultimately the best solution, I think, would be to put a school social worker on board because the school social worker has an obligation to look for the best interests of the student. And so if the school social worker is there they may be able to help guide the parent towards a better solution. But, yes, you're always gonna have occasions where a parent is gonna lean on a child. But I think even then the child is better off than not having a parent present at all.

**LATHROP:** OK. Thank you for your-- oh, I'm sorry. Senator Pansing Brooks.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**PANSING BROOKS:** Thank you. Thank you for coming, Miss Savington. I-- I'm interested-- I'm glad to hear that perspective I haven't heard that really before and I do agree. I mean, the Supreme Court has ruled that it is the parent's right to waive counsel or any other constitutional rights and not the parents. So part of the problem as you're expressing is, I don't think the schools or the parents really know how the, how the rights fall. And so I, I really like that idea of, of giving information to parents as well. So thank you for that.

**DANIELLE SAVINGTON:** Thank you. I appreciate it.

**LATHROP:** Thank you.

**DANIELLE SAVINGTON:** Thank you.

**LATHROP:** Any other proponents? Seeing none, we'll move to opponent testimony. Good afternoon.

**LARRY STORER:** Good Afternoon. Larry Storer, 5015 Lafayette Avenue, Omaha, Nebraska. I'm here to testify in opposition to all of these bills today. And basically on constitutional reasons again. The U.S. Constitution takes precedence and it says nothing about the age of children detained or whatever you want to call it. Citizen, they're a citizen whether they're 6, 14, 18, or 19. In the state of Nebraska, we don't know what age we're gonna settle on as to being the age of majority. I see different ages in all the different bills and I've got a stack like that. I'm not an expert. I'm not a lawyer. But the state constitution also says we will not enact special laws. Now you might want to qualify that by defining certain people or certain organizations but it's still against the Federal Constitution and the spirit of the Nebraska Constitution. Mr. Wayne is not here, but I'm gonna make reference to one of his constitutional amendments to the Nebraska Constitution which calls it unconstitutional for a lot of whereases. Well, that's a waste of my taxpayer dollars for nonsense. It's either the state constitution is constitutional or it isn't. If it isn't you need to rewrite it. But this bill particularly-- if I can jump ahead a little bit. Some of what we've just heard-- I thought I heard the gentleman say something about Nebraska state law says it's OK to question, detain, or interrogate or whatever you want to call it a child. He didn't say what age without parents being present. I don't think that's constitutional. And it certainly scares the hell out of me. My kids are raised. But I do have a grandson that's experienced a lot of problems because people do not interpret things like this. They're not specific enough. If you can't have a school resource

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

officer be a trained police officer that's trained in the law, what gives you the right to detain any child or to suspend any child? My time will run out so I'm tired of people having more power in this state than me and my children and my grandchild. And I can tell you from my own experience, I have worked in various social situations. But in about 10 or 15 years of trying to advocate for a grandchild, the opposition from the state and from the education department and everybody because of privacy laws, I don't think so if you read the intent of the federal privacy laws, special education laws, and DD laws. His rights have been violated--

**LATHROP:** OK.

**LARRY STORER:** --and my rights have been too. And it's time, it's time to stop writing things that are not clear. This opens the road to a lot of problems.

**LATHROP:** OK. Thank you, Mr. Storer. Next testifier. And this is opposition testimony. If anybody cares to be heard, please come to the front row on this bill. We'll get to neutral testimony after the opponents. Good afternoon.

**STEVE HENSEL:** Good afternoon, sir. Steve Hensel, I'm chief of police of Crete. Better said, I'm Crete's chief of police and I am the president of the Police Chiefs Association of Nebraska and I represent them today. We really appreciate the hard work also that's gone on in this bill. We agree with much of it. I sit here in opposition only for a couple of points that I'd like the committee to consider. On page 4, line 15 through 21, there's a inference of a second Miranda warning. And I just want to make sure that the committee is clear that the second Miranda warning with counsel present, parents, guardian, so forth will be much different in presentation than what's described on page 3, lines 10 through 25. So while we say there is a second Miranda warning, the first will look much different than the second. They're not the same warning and the, the bill isn't clear about that. Second point on page 3, line 17 through 18, there is a required comment by law enforcement that says, "That lawyer does not tell anyone what you tell them." Well, there are circumstances where a lawyer will tell other people what's told to them. We're uncomfortable with that, telling a child something that isn't completely accurate. Last point, the without delay on page 5, line 10, letting a child make a phone call, very important. Parents need to know where they're at and what's happening. But without delay on scene could put the child at risk. And we would much rather-- the police chiefs would much rather find a way

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Judiciary Committee February 14, 2019

for the child to be safe in a safe location before that call is made. But certainly before any interrogation takes place. Those are our key points. And again, we, we appreciate the work that's gone on to put this bill together and personally comments such as parental parents and parental rights ring true to me. Error on the side of the child rings true to me and so does providing developmentally appropriate warnings. And for the police chiefs, that's all I have, sir.

**LATHROP:** I want to thank you for-- a lot of times we have folks that come in opposition that go I just don't like the bill and then we're left to guess with where the problems are. So I do appreciate you coming and speaking for the chiefs with specific, specific concerns as opposed to just [INAUDIBLE] in a bill.

**STEVE HENSEL:** Of course, sir. Thank you for listening.

**LATHROP:** Senator Pansing Brooks.

**PANSING BROOKS:** Thank you for coming, Chief. Appreciate it. Did you-- have you spoken with Senator Hansen about some of these issues?

**STEVE HENSEL:** I did call his office.

**PANSING BROOKS:** OK. And, and so does he not want to fix those things or what happened?

**STEVE HENSEL:** I'm not, I'm not sure what happened after my phone call. Don't know.

**PANSING BROOKS:** All right. So-- but you did delineate these concerns?

**STEVE HENSEL:** Yes.

**PANSING BROOKS:** OK. Thank you. And--

**STEVE HENSEL:** And his staff was very polite and kind.

**PANSING BROOKS:** I bet they were. They are an amazing staff.

**STEVE HENSEL:** Yes, they are.

**PANSING BROOKS:** That's true. So OK. Well, I-- and did you have additional verbiage or ways to improve it or strengthen it in your mind?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**STEVE HENSEL:** I don't have any. I didn't bring any. The police chiefs-- getting us all together on it even a teleconference is a bit difficult with the leadership. We didn't have time to go into other language. We just made points of observation.

**PANSING BROOKS:** OK. I bet there can be some sort of solution to all this. It has just been a race during this past few days or a couple of weeks with bills. Thank you for coming today.

**STEVE HENSEL:** Yes, ma'am.

**LATHROP:** One last thing, we're gonna have to spell your name.

**STEVE HENSEL:** Oh, I'm sorry. Steve Hensel, H-e-n-s-e-l.

**LATHROP:** OK. Thank you, Chief.

**STEVE HENSEL:** Sir.

**LATHROP:** Anyone else here on opposition to LB391? Anyone here in a neutral capacity? Senator Hansen to close. And as you approach, I will note for the record that we do have letters of support from a number of organizations and, and also letters in opposition and, and one in neutral capacity from the Department of Health and Human Services. With that, Senator Hansen to close.

**M. HANSEN:** Thank you. Thank you, Chairman Lathrop. Thank you members of the Judiciary Committee. I'm really appreciative of all the testifiers we had today both, both in support and opposition. I do think we are really focusing in on a specific issue and this was my intent to be a very tailored and measured way of addressing that and making some progress. In terms of Chief Hensel coming in, my office received a lot of commentary from a lot of different police departments and it was specifically about that script and how strict the script was. And that line came up. We tried to be clear we were happy to work with anybody. And just with timing constraints, we kind of also let people know that we didn't think we were gonna get anything resolved before this hearing. But I tried to address that in my opening as well. So I'm certainly appreciative of him coming in with very focused, focused suggestions and, and as I heard them sitting over there, they all seemed like things I'd be happy to, happy to work on, happy to clarify. You know, it just-- in just kind of in closing we really seem very focused on this issue. You know, as somebody who has worked in an elementary school in the past that was

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

my job when I ran-- first ran for this Legislature four years ago. And I was working with kids, as, as we mentioned, at the beginning ages of interacting with law enforcement working with a 12-year-old. You know, think about all those things we don't allow a 12-year-old to do. We don't allow them to carry over the counter medication. You know, we don't allow them to do-- you know, to really disobey any authority figure in the school. And to all of sudden to think that later he's gonna have an interaction with police whether it's in school or out of school. And we obviously didn't think this 12-year-old-- who you know, we don't trust with Tylenol to have a knowledge of his Miranda rights and to consciously-- you know, stand up to a police officer and assert his constitutional rights. And that's where this steps in to make sure it's age appropriate and make sure it's clear and make sure the process. And with that, I'd would be happy to work with all stakeholders in the committee.

**LATHROP:** OK. Thank you, Senator Hansen.

**M. HANSEN:** Thank you.

**LATHROP:** That will close our hearing on LB391 and bring us to LB132 and our own Vice Chair, Senator Pansing Brooks. Good afternoon.

**PANSING BROOKS:** Good afternoon. Thank you, Chair Lathrop 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 today to introduce LB132 to remove mandatory minimum penalties for juveniles. Specifically, 1-- LB132 removes mandatory minimums for Class IC or Class ID felonies for offenses committed when such a person was under 19 years of age. The bill provides that these penalties shall not be a mandatory minimum but a minimum term only. To be clear, I have supported Senator Chambers' prior efforts in the past to eliminate selected mandatory minimum sentences for adults. I do hope the Legislature will advance a comprehensive elimination of mandatory minimums. But today, I offer LB132 because mandatory minimums are particularly egregious when applied to juveniles. And I'm hoping that the Legislature will move forward on this proposal. The U.S. Supreme Court ruled in 2012 in Miller v. Alabama and Jackson v. Hobbs that mandatory life prison sentences for juveniles are unconstitutional. The court further said that judges must be able to consider the characteristics of juvenile defendants so that they can issue fair and individualized sentences because adolescence is marked by, quote, transient rashness, proclivity for risk, and inability to assess consequences, end quote.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

Since that time, states have taken action to curtail mandatory minimums for juveniles for both life and nonlife sentences. In 2014, the Iowa Supreme Court held in *State v. Lyle* that, quote, one size fits all, unquote, mandatory minimum sentences were unconstitutional when applied to juveniles. Finding such juveniles, quote, cannot satisfy the standard of decency and fairness embedded in Article I, Section 17 of the Iowa State Constitution, unquote. Chief Justice Cady wrote in the ruling that, quote, mandatory minimum sentences for juvenile are simply too punitive for what we know about juveniles, end quote. The court said, trial judges may sentence a juvenile to a minimum sentence but only after a separate hearing that examined five factors including the offender's age, the family environment, the circumstances of the crime, the offender's competency in navigating the legal system, and the potential for rehabilitation. In 2017, the Iowa Supreme Court in a subsequent ruling said, even these minimum sentences should be uncommon. Many states have taken measures to reform mandatory minimum laws for both adults and juveniles including Arkansas, Georgia, Louisiana, Michigan, Ohio, Pennsylvania, and South Carolina. Mandatory minimums are particularly harmful and counterproductive for juveniles. Nearly 200,000, 200,000 juveniles are tried, sentenced, or incarcerated as adults each year according to the *Cardozo Law Review*. A 2012 Sentencing Project study of those sentenced to juvenile life without parole shows 79 percent of them witnessed violence in their homes regularly. Prior to their interaction with the criminal justice system, fewer than half were attending school at the time of their arrest and nearly half were physically abused. When you consider the unfortunate circumstances of so many of these kids and you further consider that numerous studies show that a juvenile's brain isn't fully developed until age 25 or 26, those factors illustrate that mandatory minimums are destructive policies for all crimes. Judges should have discretion to weigh in with the myriad of special circumstances relevant to the crime and should be able to consider the juvenile's age. Mandatory minimum laws do not allow for that juvenile discretion. They ruin more lives and-- lives and they create a heavier financial burden to the state. For instance, it costs \$32-- \$31,271 a year to house an inmate in our adult prisons and a \$114,876.85-- 45 cents per year to house a juvenile at the youth rehabilitation and treatment center in Kearney. A hun-- almost a hundred and fifteen thousand dollars a year. With Nebraska having the second most overcrowded prison system in the country and with our state currently subject to law-- to a lawsuit because of this overcrowding crisis, it is important to move forward on both short-term and long-term steps to fix our overcrowding crisis. We must

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

ensure that our prisons are not packed with people where the punishment does not fit the special circumstances of the juvenile's crime especially in the case of juveniles. We must shift our state resources from excessive and expensive interminable incarceration to rehabilitative programs proven to reduce crime and recidivism and keep our communities safer. In closing, I ask you to advance LB132 to General File. I'll be happy to ask any question-- or answer any questions, but there are some wonderful experts behind me with way more information. Thank you.

**LATHROP:** Senator Chambers.

**CHAMBERS:** I'm glad you came, Senator, with this bill. The U.S. Supreme Court outlawed mandatory death sentences saying that that would not allow for the particularized analysis that is needed of each individual case so that the sentence could fit the individual and those circumstances so there can be no mandatory death sentence in this country. When it comes to mandatory minimums, especially with young people, a management tool is taken away from the Department of Corrections because during that period whether it's a three-year mandatory minimum or five, which they usually are, no good time can be earned. As a management tool, the holding over somebody's head of the laws of possible good time helps to encourage good conduct. But what has been demonstrated is that when a person has no chance to get good time anyway, they have nothing to lose so it's negative all the way around. And these mandatory minimums came in during the period when everybody wanted to be tough on crime. And since they already had a top sentence of 50 years, they couldn't do anything about the top. So all they could do is work at the bottom and what they decided to do was say a mandatory minimum. So it was not even in accord with sound principles of penology and I thought I would say that while you're opening to get it into the record so that I wouldn't hold any testifier here for too long a time. And you can respond if you'd like, but I don't require one.

**PANSING BROOKS:** How could I respond to that eloquence? I can't. Thank you for your comment.

**LATHROP:** Very good. Thank you, Senator Pansing Brooks.

**PANSING BROOKS:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**LATHROP:** Proponents can come forward. And once again, if there's a number of you if you can fill the front row that will help us with administrating the process of having a hearing. Good afternoon.

**JULIET SUMMERS:** Good afternoon, Chairman Lathrop, 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 support of LB132. Forgot to say earlier, Happy Valentine's Day. There's no one I would rather spend it with than this committee apart from my family. So all children deserve society's protection to grow into healthy productive adults. We should respond to youth crime in a thoughtful and effective way that responds to youth needs, preserves community safety, and contributes to Nebraska's future prosperity. We support LB132 because it allows judges the discretion to tailor sentences for youth based on their unique needs and circumstances. And in doing so gives both children and communities the protection they need. Teenagers may look grown-up but they're still very much under construction. As this committee knows they have poor impulse control, are more susceptible to peer pressure, and are less capable of weighing long-term consequences than adults even into their twenties. Senator Pansing Brooks has also eloquently laid out the history of the Supreme Court case law in this regard so I won't rehash it. But I do want to make clear that under the terms of this bill, judges would still have the discretion to sentence minors even to lengthy sentences of incarceration if warranted. By allowing the opportunity for individualized consideration at sentencing though, the bill comports with what we know about children's capacity for change. As a former juvenile public defender, I represented youth facing mandatory minimums in district court proceedings. And I don't want to minimize their behavior or the consequences of their crimes to victims. But the nature of mandatory minimums is inflexibility; inflexibility to the different circumstances, histories, personal characteristics, and capacity for change represented by youth defendants. And whether or not the judges might have wanted to rule differently in those cases their hands were tied by the sentencing statute. So LB132 may or may not have changed the sentences that were imposed on the youth I represented but it would have allowed judges the discretion to do so based on the facts of the case and the circumstances of the unique, developing humans before them. Our responsibility to protect children requires us to hold them accountable in a way that gives them the opportunity for rehabilitation, redemption, and hope. At Voices for Children, we believe that this bill is an important step in that work.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

And I'd like to thank Senator Pansing Brooks for bringing it, and I would urge you to advance it. Be happy to take any questions.

**LATHROP:** Thank you, Miss Summers. I don't see any questions today.

**JULIET SUMMERS:** Thank you.

**LATHROP:** Next testifier. Welcome.

**KENNY JACOBS:** Thank you. Kenny Jacobs, K-e-n-n-y J-a-c-o-b-s. I'm testifying on behalf of the Nebraska Criminal Defense Attorneys Association in support of this bill. As was just testified to by Miss Summers as well as Senator Pansing Brooks, this bill doesn't take away the discretion of a trial court. It just simply gets rid of the mandatory minimums of the three years that good time cannot be earned on. We're in support of that-- this bill. Frankly, because this does allow the trial court to give each case its own weighing of facts and determining what the appropriate sentence would be without simply just imposing a mandatory minimum sentence. As was just testified to, if a sentence-- or if, if a crime is deemed by a judge to be worse than another one the judge can go over that three years and still go up to the, to the maximum 50. It just gets rid of that mandatory minimum of three. Additionally, there's been, in the past few years, juvenile justice reform on sentences. And I think that this bill provides the further reform of those juveniles who are charged in adult court to allow them to receive good time towards their sentence. The mandatory minimum three years would push back any potential programming that an offender might get towards the end of their sentence and without the mandatory minimum they would be able to get some of that programming sooner to hopefully get out and be a better productive member of society. I don't have a lot more. I think a lot of it was testified to as well as brought forth by Senator Pansing Brooks. But I would ask on behalf of the NCDAA to advance this bill.

**LATHROP:** Thank you. And it's not required that you use up your three minutes so you're good.

**KENNY JACOBS:** Perfect.

**LATHROP:** We appreciate your testimony today.

Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**LATHROP:** I do not see any questions. Thanks for being here. Next proponent.

**LaVON STENNIS-WILLIAMS1:** My name is LaVon Stennis-Williams, S-t-e-n-n-i-s hyphen W-i-l-l-i-a-m-s. I'm here to speak in support of the legislation because I think that is the first step in making sure that we can put some parameters around the racial and ethnic disparity that we see in sentencings. As the director of a nonprofit program, I know firsthand what it's like. I teach in all the prisons including Nebraska Correctional Youth Facility. I get to see the hopelessness in a kid who is doing all he can but know that it's not gonna benefit him in the long run because of mandatory minimums. I see the impact on them as adults when I go to adult prisons. When kids have been allowed to spiral in and out of the juvenile justice system, they become victims of the mandatory minimums. When they come out they have really no hope, no life skills, no social skills and they end up getting back into the system again. And so I think the bill is a great opportunity for us to address those issues that impact. But not only does the bill-- but not only does the mandatory minimums have a disregard for the adolescent brain development but it also disregards what we know about adverse childhood experiences. We know that these kids who often impacted by mandatory minimums have grown up in horrific conditions, high-poverty, high-crime communities. They've seen the violence and it has impacted their decision making. Those factors will now be allowed to be considered when we do away with the mandatory minimums. And when we talk about our kids in this piece of legislation, not only should it advance because of a moral obligation, but you also have an economic necessity. When these kids are coming out of prison and they have not had a chance to rehabilitate themselves or take advantage of programs because they've languished. It just cuts their economic ability to make a living for themselves. And so poverty then is about to spiral out of control. So for these reasons and for reasons cited earlier by other people along with what Senator Pansing Brooks has said, I, I strongly encourage you to advance this piece of legislation. Thank you.

**LATHROP:** Very good. I see no questions. Thank you for your testimony today.

**SPIKE EICKHOLT:** Good afternoon, Chairman Lathrop and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t appearing on behalf of the ACLU of Nebraska in support of this bill. You are being given a copy of my written statement so I won't read it.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

You're also-- I also had distributed a summary of what some other states have been doing in the last few years with respect to mandatory minimum reforms actually from an organization called Families Against Mandatory Minimums which is actually I think funded by the Koch brothers or some similar right of center entity that is looking at mandatory minimum reform and urging that reform across the country. I just want to sort of summarize generally what this bill does. This bill applies to youth offenders and it applies to IC and ID felonies. So that means we're talking about defendants who are ages 14 through 19 because that's the age of concurrent jurisdiction for juvenile and adult court for these kind of crimes. And it's IC and ID felonies. There are some other mandatory minimum sentences that are listed in the bodies of the crimes. For instance, some sex offenses and some habitual criminal, repeat offender that do have mandatory minimums. Those are not affected by this bill. It's just Class C and Class D felonies. I want to emphasize the point that this does not decriminalize anything. People who are-- the youths who are found guilty of this simply would be subject to not mandatory minimum sentences but minimum sentences. That matters because a mandatory minimum means two things: one, you've already heard and that is that youth does not earn good time on that first mandatory minimum number. That means they do at least three years or at least five years depending on what they are convicted of. And it also means that the judge cannot place someone on probation if they're convicted of a mandatory minimum even if the judge wants to, even if the judge thinks it's right, the judge cannot do that. It also-- if you pass this bill it would still allow the judges to impose significant sentences because they can do what they can do now for other nonmandatory minimum crimes. They can do a 40- to 50-year sentences and they do for serious crimes. Other states have done this and I urge this committee to consider that. One point I want to make is that when you look at the numbers of youth that are actually serving mandatory minimum sentences, it may not be that high because one function that mandatory minimums have is that they are an ultimate negotiating tool on the side of the state. If you are a defense attorney you will try to negotiate any sort of other kind of plea deal that you can get to avoid a mandatory minimum. Even if it's gonna mean doing the actual amount of time because as Mr. Jacobs says when you're serving that time in prison you can earn good time. You can be eligible for programming and you're not doing that if you're doing what they call hard time on a minimum sentence. So I think this bill is a modest reform. We would urge the community to advance it.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**LATHROP:** I see no questions. Thank you, Mr. Eickholt. Appreciate your testimony as always. Thanks for being here. Anyone else here to testify in favor of LB132? Anyone here to testify in opposition to LB132? If you intend to testify in opposition, if you would come forward. And if you're waiting in line, if you can get in the front row that helps. Good afternoon.

**TRESSA ALIOTH:** Good afternoon, Chairman.

**LATHROP:** You, you sound like you have a soft voice. I'll remind you to get close to the mike if you can so everybody can hear you.

**TRESSA ALIOTH:** It can be very deceiving. I've never been told I have a soft voice. But thank you. Thank you Madam Chair-- or Chairman and members of the committee. I'm new to you. I have not been before you before but I'm not new to the system. My name's Tressa Alioth, that's T-r-e-s-s-a, last name, A-l-i-o-t-h. I represent the Douglas County Attorney's Office as well as the Nebraska County Attorneys Association. I have been a prosecuting attorney under Don Kleine and before Jim Janssen and Stu Dornan, but in the office for going on 21 years. I am a trial attorney. I am a supervising attorney and I'm also on the board of the Nebraska County Attorneys Association. I say that just so that you know I have been around and have dealt with these things. And of listening to all of the proponents, I actually am an opponent of this for the reasons that-- talking about it I think the main point is what are the statutes that we're talking about that have the mandatory minimums, the ICs and the IDs. You're talking about the possession with intent to deliver which are not marijuana, they're not the-- they're the heroin, cocaine, methamphetamine and they're in 10 grams to 139 grams. You're also talking about possession of pornography with a prior offense. But the main ones that we're talking about are gun offenses. We're talking about possession of guns by prohibited people. We're talking about use of a weapon during the commission of a felony. We're talking about discharging a firearm at a house or a vehicle. And we're talking about discharging anywhere near or in proximity to a vehicle. So when you look at what are the offenders that we're talking about as stated by the opponents ages 14 through 19 we're talking about mainly those that are possessing firearms and not only possessing those but using those. And when you look at mandatory minimums while I hear that judicial discretion should be there in Douglas County where we see the majority of these shootings you have 16 different personalities on the bench there and the mandatory minimums allow taking into account the severity of the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

crimes we're dealing with. They allow for having the conformity of those mandatory minimums. Shootings, when you're dealing with robberies, you're dealing with assaults, you're dealing with murders are not those lesser crimes where probation should be allowed. And that's the main thing is not having the probation here. I've been in the office for 20 years. I see my time is up. But over the past 20 years, defendants are getting younger and younger. We're talking about defendants that have already had the option to have their cases transferred to juvenile court and because of their backgrounds and because of the severity of the crime. That's not an option. So we've tried reha-- as much rehabilitation as is possible and there is not any left in the juvenile court system to give them. So for those reasons, the County Attorney's Office as well as the Nebraska County Attorneys Association stand opposed to reducing these minimums for that age because those are the age groups that we are seeing be more and more and more violent. Thank you and I would answer any questions.

**LATHROP:** Senator DeBoer.

**DeBOER:** Hi. Thank you so much for testi-- testifying today. I think I heard in what you said just there that the judges have the discretion under this bill but there seem to be some concern that the judge's discretion would not be adequate to make sure that things were safe and that the, the kids. So my question is, does the judge-- do the judges not have the same information that you think they should have? Are they lacking information or do you not believe in the judicial discretion of the judges that are there or what's exactly the issue?

**TRESSA ALIOTH:** I, I appreciate your question and it's not that you don't believe or that I don't believe in the discretion that is there it's just that you have different personalities. And when you're dealing with these crimes where you have individuals who have lost their lives, who have nearly lost their lives because we're talking about using these firearms, you have some that may potentially place that person on probation when they are there for violating probation already or they're there and they have already had possession of a gun and things continue to escalate. So having these mandatory minimums to not allow the disparity in one judge may give probation and the other judge may potentially give 30 years, you at least have some conformity or uniformity in the sense that you're talking at least three to five years without that possibility of probation. Because again, we're dealing with juveniles who have already been through the juvenile

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

system and there's not rehabilitation there anymore. And that's why they're now being tried as adults.

**DeBOER:** So you don't think there's anything wrong with the amount of information the judges have, the judges have information of previous crimes and things like that. It's that you're concerned that they will not provide uniformity in their decision making?

**TRESSA ALIOTH:** Correct.

**DeBOER:** OK, thank you.

**LATHROP:** Senator Chambers.

**CHAMBERS:** Did the county attorneys-- is there a group of them who will discuss the position they're gonna take on a given bill or do they just assign a person to go speak against the bill?

**TRESSA ALIOTH:** I wouldn't say that they assign a person. I mean, we do discuss. We have trainings. We have meetings.

**CHAMBERS:** Can you move closer to the mike? I can't really hear you.

**TRESSA ALIOTH:** Oh, I'm sorry. Senator Chambers, there's not a-- we do discuss different bills. I wouldn't say that they just assign them one individual. We do discuss at various trainings and meetings that we have different bills.

**CHAMBERS:** The main argument that they gave you to come here with is irrational. If they want uniformity, why don't they ask for a mandatory minimum on every felony?

**TRESSA ALIOTH:** That's a good question. There are-- I again believe that the mandatory minimums that were set forth long ago in the Legislature were those ones that were identified as being the more severe cases. The more that need a penalty that suits the crime that's being charged.

**CHAMBERS:** Well, that's not why they were set. People were trying to be tough on crime and there wasn't anything-- any way to get tough so they said make it a mandatory minimum. One of those was advocated by former Senator Brad Ashford and he said it's a way to fight gangs. Well, that's not why you set a punishment and a penalty that's gonna go across the board for any and everybody convicted of that particular crime. So if they send you here again, I'm going to ask you that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

question and maybe you can present it to them. If they are interested in uniformity more than anything else, ask for a mandatory minimum sentence on every crime. They wouldn't get it. But prosecutors, if they have even gone to law school understand that when it comes to sentencing for crimes the judges are supposed to look at each case individually. Consider the facts, the circumstances, the conditions of the defendant then tailor a sentence to fit that individual. But for the county attorneys to say that one size fits all is not something they would even want applied to themselves when they're charged with professional misconduct. And that's really not a question. But if you'd like to address it then you can feel free to do so.

**TRESSA ALIOTH:** No thank you, Senator Chambers.

**CHAMBERS:** That's all that I would have.

**LATHROP:** Just a quick question. Is there any circumstances under which these mandatory minimums are unfair in your judgment?

**TRESSA ALIOTH:** Again, and I think it was Mr. Eickholt who brought up prosecutorial discretion. There are-- and, and being honest with the committee, in my 20 years there are situations where as a prosecutor you look at the circumstances and you do do away with the minimum charge-- the mandatory minimum charge. So those things do happen. It's just again in wanting our community to realize we take more certain crimes more serious in the penalties that should be given. That's kind of the stance of the County Attorney's Office. But there are situations where, yes, we do look at those and negotiations are had.

**LATHROP:** OK. Thank you.

**TRESSA ALIOTH:** Thank you.

**LATHROP:** Oh, I'm sorry. Senator Chambers has a follow-up.

**CHAMBERS:** That answer opened another avenue of question in my mind. If we talk about prosecutorial discretion and the prosecutors don't want a particular person to serve a mandatory minimum then the prosecutor just charges a different offense. That's the only way it can be done, isn't it?

**TRESSA ALIOTH:** That's correct.

**CHAMBERS:** Isn't-- did you say yes?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**TRESSA ALIOTH:** Yes.

**CHAMBERS:** OK. And I can't hear you. You can actually pull the mike closer to you. It will bend. OK. I didn't, I didn't want you to think I was frowning at you but I was really trying to hear what you were saying. That in itself indicates why there should be no mandatory minimums. It is up to the Legislature to set policy. And let's say that the Legislature did have a legitimate justifiable reason for establishing a mandatory minimum for a certain offense. Then if that particular offense was committed based on the circumstances of the act, then the prosecutor wants to defeat the policy of the Legislature by not charging the appropriate crime. And that is where the arbitrariness comes in. And why more black people get sentenced to prison than white people. I just handed out today an article to my colleagues where a 17-year-old white kid had-- he was attacking his parents. The Douglas County deputies came to respond. He opened fire and hit one of the deputies twice, once in the hand and once in the forearm. The U.S. Supreme-- I meant the Nebraska Supreme Court refused to allow him to be prosecuted as an adult. And then the judge sentenced him to probation and community service. They wouldn't do that if it was a black kid. And you know that. I know it. Everybody who saw that article today and mentioned it to me acknowledged it. So what we have to do as a Legislature is take that kind of arbitrariness away from the prosecutors and maybe your presence gave the best argument for abolishing all mandatory minimums and that you can respond to. Do you think it's appropriate for a prosecutor to look at a person where-- and to make the question easy to be understood. If you have factors 1, 2, and 3 that man-- that justifies a charge for an offense that would carry a mandatory minimum. So a black kid comes in and factors 1, 2, 3 are there and the prosecutor charges the offense that would carry a mandatory minimum. A white kid and his parents have money come in and the factors 1, 2, 3 are there and a different offense is charged. So not only is there no mandatory minimum, but the judge can give probation. Do you think that's fair?

**TRESSA ALIOTH:** Senator Chambers, the case that you're referring to is actually one of the reasons of why we believe the uniformity between judges needs to be there. That was the judge in that case that transferred that individual to juvenile court. And so in juvenile court you're not subject to mandatory minimums because you're not dealing with the criminal code. You're not dealing with the, the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

shooting as you would have been charged with the same as you are as an adult.

**CHAMBERS:** I know and I'm asking you. Let me ask you more directly, do you think if a black child because, will let's say a 17-year-old, call it a young adult, whatever the term would be, had attacked his parents, shot at two deputies and hit one of them that he would have been charged and tried as a juvenile. Based on your experience, is that the way you think his case would have been handled?

**TRESSA ALIOTH:** Again, the case you're referring to we did in fact charge that individual as an adult. It was the court that transferred him to juvenile court. Do I believe that that same court if that individual was an African-American male would have been transferred to juvenile court? Yes, I do.

**CHAMBERS:** You do?

**TRESSA ALIOTH:** I do.

**CHAMBERS:** I don't have any more questions.

**LATHROP:** I see no other questions. Oh, pardon me, Senator Wayne. I couldn't see him back there.

**WAYNE:** No, no.

**LATHROP:** No more questions. But thank you for your testimony today.

**TRESSA ALIOTH:** Thank you, Senators. Thank you, Committee.

**LATHROP:** Next opponent.

**LARRY STORER:** Larry Storer, 5015 Lafayette Avenue, Omaha, Nebraska. I think initially we're still talking about another constitutional issue here. But as a taxpayer, as a citizen, I have a right to life, liberty and pursuit of happiness and protection from my government. And I fail to understand, what this really means. Now most of us don't have time to read all of your existing bills and all the details of these things and what is put out in these or the World-Herald or the Lincoln Journal Star have very little to do with what I read in the actual bill that's a copy of right from your official copy office. And I'd like to ask, as a citizen, why are we, from a commonsense standpoint of a nonlawyer, why are we erasing felony offenses that were originally 50-year sentences? And coming up with a minimum sentence

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Judiciary Committee February 14, 2019

when we don't even know what the minimum is. Nobody has suggested what a minimum is. Not in this document anyway. That seems rather unfair to citizens that expect protection. Yes, they might be a juvenile, but if they committed a crime apparently it had been adjudicated a crime, they had been sentenced to 50 years. So what's the problem here? Did somebody goof up when they or were, were arrested? Were they arrested unconstitutionally? Were they adjudicated in-- unconstitutionally and now we're trying to fix it? Or is it also about-- well, for the kids so they don't have to be seen in shackles. Is it about the high price of juvenile justice, which somebody just quoted as a \$185,000 a year to have them in prison or the Douglas County Jail? I don't know exactly what the price on the programs that these people are presenting is, but I will tell you that we don't, we don't hear the kind of information that's printed in this magazine. It's free for anybody at any place that you buy cigarettes and alcohol. There's all kinds of copies of it at the city/county building in Omaha. And this kind of stuff works against the citizens, against the rights of the juveniles, that you're all trying to serve. I am for juveniles also but there is a point where juveniles need to serve the time for the crime. If it's not a crime, don't you have existing laws and existing judges that can go to court for him and undo the crime, undo the decision and shorten his term? The President can even-- you know, write an order. Why do we need another bill?

**LATHROP:** OK. Thank you,--

**LARRY STORER:** Thank you.

**LATHROP:** --Mr. Storer. Miss Moreno, are you intending to testify?

**KELLEE KUCERA-MORENO:** Well, I'm neutral.

**LATHROP:** Oh, OK. Anybody else here in opposition to LB132? OK. Neutral testimony.

**KELLEE KUCERA-MORENO:** Thank you. Kellee Kucera-Moreno, K-e-l-l-e-e K-u-c-e-r-a M-o-r-e-n-o. This is a black and white right or wrong bill. I'm-- I guess to be objective and neutral, this is about equality. This is about human rights. This is about people treating people like, like people and with respect. If you have a record many people don't look good on paper. Most criminals-- most people who've committed nonviolent crimes, whatever it is, they don't look good on paper. So to be judged by-- you know, by-- this is just wrong, it's wrong. The system's broken and, and it needs to be fixed. What else do

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Judiciary Committee February 14, 2019

I need to say? When a person is-- what-- whatever the sentence is, what they have is a sentence to life. You're giving up their developmental stages of life whether you give them one day, one week, one year, and then on up to 50. If a child-- if somebody's committed a crime and you give them a lengthy sentence you're taking away a chunk of their lives. And people need to take a look at is drug and alcohol use and selling a crime or is it a medical issue? People are being charged and put in prison because they are making bad choices and they, they need to be in treatment out in the community. Most of this stuff we need to do our community-based programs. There is overcrowded prisons. There are people being locked up in small cages and expected to change their behavior. I think most people would be pretty upset if they were put in the situation that most juveniles are put in. We don't like our bosses to tell us what to do. We don't want anybody to tell us how we should to golf or how, how we should do anything. And then we're expecting these, these children who are just learning who they are and what they want to do developmentally. I had-- let me see if I can do this quickly, my sixth birthday party. Ernie [PHONETIC] was there. Ernie was a, a little black boy standing next to me in the picture with, with my two front teeth gone. My mom was OK with this. My grandma had-- was furious. You know, this was just in the 1960s. I didn't know about racial inequality. It is-- you know, it, it is real. People don't have to know-- you don't have to reach-- research all this stuff. Senator Chambers has developed-- he's looked at-- researched all of this and for 45 years or plus he knows what he's talking about. And only a black man will know what it's like to be black and to have people locked up in prison. We don't know, so we have to just trust our senators and Pansing Brooks.

**LATHROP:** Thank you for your testimony once again. Anyone else here in a neutral capacity on LB132? Seeing none, Senator Pansing Brooks to close. We do have a couple of letters of support and one in opposition.

**PANSING BROOKS:** Thank you so much, Chairman Lathrop. Just a couple things. As a reminder the, the juvenile justice system is supposed to be rehabilitative not just only punitive, we-- it-- it's-- I, I really appreciate the, the-- some of the things that Ms. Stennis-Williams said that these kids feel hopeless. They don't have any ability to use good time to get better or to work on what they're doing. That the mandatory minimums also disregard childhood experiences-- adverse childhood experiences. And that they're-- and, and Mr. Eickholt talked about the fact that mandatory minimums become the ultimate negotiating

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Judiciary Committee February 14, 2019

tool. Actually, it's the ultimate negotiating hammer. Again, what we had here was a discussion of whether you believe in judicial discretion or not. I mean, yes, there should be some prosecutorial discretion. I have no, I have no argument with that but I believe in Nebraska's judges and I believe in their ability to look at a crime. When I brought this bill last time a couple of years ago there was a case that somebody talked about where some-- a kid went into a Kwik Shop and robbed the Kwik Shop and used a firearm to do so. Meanwhile, two people-- two kids were sitting in the car. They were all charged with the same mandatory minimum felony robbery with a crime-- with, with a gun. So this is where the judges said we would like some discretion here. Two people sitting in the car did not do the act and yet the mandatory minimum says they're all treated the same. So again, let's give our judges some, some, some belief in what they're doing and some ability to understand that if there is a horrendous crime they're going to charge significantly on that horrendous crime. But there are instances where kids are not fitting into a box and need to be treated differently. Thank you so much.

**LATHROP:** Thank you, Senator Pansing Brooks. That'll close our hearing on LB132 and bring us to LB3--pardon me, LB230, and also Senator Pansing Brooks to open.

**PANSING BROOKS:** Thank you, Chair Lathrop and 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'm here to introduce LB230 today to restrict the use of, of room confinement in juvenile facilities except when it is necessary to eliminate a juvenile's substantial and immediate risk of harm to self or others. LB230 further specifies minimum standards of, of the room confines-- of the room used for confinement, what necessity-- what necessities should be available to any juvenile held in confinement, who must be notified of placement in confinement, and procedures that shall take place following confinement. I wanted to first offer some background on what led to this proposal. In 2016, the Nebraska Legislature passed LB894, a large juvenile pack-- justice package that included a bill 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 requires facilities that serve children and youth to document information every time a child is placed in room confinement. It also requires that the Inspector General for Child Welfare be allowed to collect data, assess

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Judiciary Committee February 14, 2019

the use of room confinement, and present an annual report to the Legislature. We strengthen these reporting provisions further through legislation that I introduced in 2017 under LB516. In line with these statutory requirements, the Inspector General has released reports that show 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 methods and 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 Legislators [Legislatures] Committee with conservative State Senator Wesley-- Whitney Westerfield of Kentucky in 2017. We released a report entitled, Principles of Effective Juvenile Justice Policy which provides a best practices framework for states. I've, 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, quote, conditions in residential facilities and other programs should be humane, supportive of rehabilitation, developmentally appropriate, and trauma informed, incorporating practices that understand, recognize, and respond to trauma, unquote. The report quotes the American Academy of Child and Adolescent Psychology [Psychiatry] which, which states, quote, 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 a 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, end quote. 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, best practices show we should all then be asking the question, how is Nebraska measuring up? According to the latest Inspector General's report, Nebraska juvenile facilities reported in fiscal year 2017-18, the total number of incidents of room confinement was 2,686 which was only slightly less than the previous year at 20-- 2,776. The numbers show considerable issues in some of our state and county facilities. There have-- there has been significant-- there have been significant improvements in several facilities since we enacted our previous legislation. But some facilities have failed to improve or have had increases in confinement. Inspector General Julie Rogers will be here today to explain this and talk in greater detail on her findings. One thing that stood out to me in the reports and figures were the figures from YRTC treatment centers. The YRTC in Kearney reported 1,099

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Judiciary Committee February 14, 2019

incidents of room confinement in fiscal year 2017-2018. This is an increase of 260 incidents from the last reporting period. In Geneva, the number of room confinement incidents was 726. Nearly double from the year before. Both facilities have improved on the length of confinement but the high number of placements are concerning. The Department of Health and Human Services rules and regulations currently authorize the use of room confinement either for reasons of safety and security or as a disciplinary sanction if the youth has violated rules. What we know is that far too often kids are being placed in room confinement because facility administrators and staff lose patience or because it may be more convenient to put the child in room confinement. We should be setting these kids up to succeed in life not treating them in such a way that they return to our communities without hope. It is that loss of hope that leads kids directly into our criminal justice system when they become adults. The pathway is paved particularly deep for racial minorities. Youth of color account for 4 in 20 kids, but 11 in 20 youths in Nebraska juvenile facilities are youths of color. I bring to-- I bring LB230 before you today so Nebraska can integrate best practices on room confinement to do better for our kids. Others have led the way on this necessary best practice. The use of solitary confinement for juveniles was banned three years ago in our federal prisons. Further, nine states have enacted legislation to limit or prohibit juvenile solitary confinement including Texas, Omaha-- or sorry, Texas, Oklahoma, Nevada, West Virginia, and Alaska according to the National Conference of State Legislatures. When I brought this bill last year there were concerns about some of the time limits on room confinement duration. I had some productive, productive discussions with county officials and address their concerns in this year's bill. I believe LB230 helps ensure we are keeping children and staff safe in our juvenile facilities while helping children rehabilitate and become productive and thriving members of our society. You can see that the Department of Health and Human Services and Department of Corrections are attaching huge fiscal notes on LB230 based on the words, quote, continuously monitored, unquote. Apparently, they interpreted, interpreted this to mean that some sort of physical presence must be with the children in confinement at all times. I think the fiscal notes themselves demonstrate the extent of the problem and how these agencies are grossly overusing room confinement. If they're holding kids in room confinement due, due to staff shortages that is quite an admission. It's actually shocking to see this on a fiscal note and it demonstrates even more why this bill is crucial. Nonetheless, I have addressed the term continuously monitored, the term-- the phrase in

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Judiciary Committee February 14, 2019

AM321 which makes clear this monitoring can be done through regular visits by staff. They may also supplement that with electronic video monitoring if they have that in place. I know the Lancaster County Youth Center has staff check every 15 minutes, for example, and that sounds more than reasonable to me. With this amendment there is no reason why there should be a fiscal note on this bill. Last year, there was an attempt to attach a \$4 million fiscal note you may all remember so that they could build a fence around YRTC in Kearney. These fiscal notes are disingenuous at best. So in closing, I would urge you to advance LB230 to General File with AM321. And with that, I'll be happy to answer any questions or point you to the fabulous experts behind me.

**LATHROP:** Senator Chambers.

**CHAMBERS:** These are examples of what has come to be called death by fiscal note.

**PANSING BROOKS:** Um-hum.

**CHAMBERS:** What this shows is that we have unethical, dishonest people in positions of leadership and authority and they're willing to try to bamboozle and snooker the Legislature. And the only way we'll stop it is to just totally disregard any of these fiscal notes and enact the legislation for policy reasons that we think ought to be enacted and we will notice quickly that they'll find a way to do within their budget what it is we require them to do. So I don't think these fiscal notes are gonna carry that much water as far as determining what will happen to these bills. And this bill is especially good because as I'm sure our expert Miss Julie Rogers will point out and you touched on the devastating consequences of solitary confinement even when it comes to adults. And in adult prisons they're trying to reduce the use of solitary confinement. And in a so-called pro-life state, I'm puzzled at how thousands will turn out because they're concerned about fetuses which is their right. But when a full-grown living child is in the world suddenly they have no interest. Those people are not here today to speak out for what is happening that damages these children. But I think it's easy for a person from a political, religious, or whatever the motivation is to make it appear that there's a great amount of concern for human beings at all stages of development. But as soon as whatever it is that is in a woman's womb when it passes through the birth canal all interest and concern for that which is born evaporates. And I think the sparse population at these hearings bear out the truth of what I'm saying. And I wanted that on the record

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Judiciary Committee February 14, 2019

in the context of this bill because I think we've got to do something about this problem. And again if you want to respond you can, but I don't know if there's a question in there.

**PANSING BROOKS:** Thank you, Senator Chambers.

**CHAMBERS:** OK.

**LATHROP:** I see no other questions. Thanks, Senator Pansing Brooks.

**PANSING BROOKS:** Thank you.

**LATHROP:** First proponent.

**KELLEE KUCERA-MORENO:** Hi, Kellee Kucera-Moreno, K-e-l-l-e-e K-u-c-e-r-a M-o-r-e-n-o. I'm having her-- thank you, pass out information that is available to, to guests-- to people who tour the Capitol. I'm, I'm talking on behalf of people that don't really know what you guys do. I'm just learning about this and I'm glad that you guys have our back. In this folder that-- or this pamphlet that describes Nebraska, there's one sentence in here that is shared with, with pioneers and immigrants. One sentence on Native Americans. And it says, on opposite sides of the rotunda-- it's describing the Rotunda, the east and west legislative chambers respectful-- respectively are decorated to represent the Native Americans and the pioneers and immigrant groups which followed them into the Great Plains. I think that-- you know, from what I understand there's a-- there's not a whole lot there. Or maybe there is a lot that tells where we're at with racial disparity. I don't think it, it happens on a conscious level. I think there's statistics that show it's on a more subconscious level but it is there and we as constituents just need to know and trust our, our legisla-- our senators again. The only person who really knows about this again, and I want this for the record, is Senator Chambers, Patty Pansing Brooks. The people who've researched this. So if-- and there should be no solitary confinement. I think people need to know what that means is that you're keeping somebody in a space, I believe, 7 foot by 12 foot. It's in a very small place and it's about the size of my dog kennel. And they are being kept in there from anywhere from a day, to a week, to several months, and it's, it's used for punishment. There is nothing therapeutic that comes from being locked in a cage. And if something is not done about this I believe the ACLU is-- does have a case coming up about, about civil rights. And if this doesn't, if the-- if, if we don't do something

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Judiciary Committee February 14, 2019

about this now and at least moderate it put this bill through then it's probably gonna end up in court. Thank you.

**LATHROP:** OK. Thank you for your testimony. Next proponent, please.

**DIANE MARTI:** Chairman Lathrop, members of Judiciary Committee, I'm Dr. Diane Marti, D-i-a-n-e M-a-r-t-i. I am the current president of the Nebraska Psychological Association and I'm here to strong-- offer our strong support for LB230. My time today will be spent a little different you have a packet coming around and there's all the research as to why Senator Pansing Brooks did a nice job but there's so much more. There could be books on this. So I'm gonna take a little different approach, my memory. My oldest son, mid-90s, is in juvenile confinement. My son calls me with a voice pleading and begging to come visit him. He tells me he's held in this room for 23 hours. He cannot talk to anyone. He has no books. He has nothing to do. He cannot take it anymore. He cries, his voice begging me to come because that would give him one more hour out of the hole. Out of guilt, fear, compassion, I drag my four younger children out, sometimes through snowstorms, just to go subject the kids to pat down, strict rules of playing. We visit for an hour and my heart aches with pain knowing that when I leave he will be locked in isolation. This experience has had a mark on my son. For months, he was in situations in bitterness and anger. It was due to not enough facilities and he was waiting for a treatment center. He was gonna be a lawyer. He was so capable of being one. And today we're not there. He's still struggling. As a licensed psychologist, I specialize in mental health. I specialize working with individuals with autism. Unfortunately, most of my autistic individuals who've been in the juvenile system have been in solitary confinement. I'm hearing months. One of my persons, it's been years as an adolescent. And I asked him to-- he's in jail now as an adult, and I just asked him to send me a little-- a few words. He said, my story's difficult to tell. I spent four years in solitary confinement because the facility I had had a lack of ability to meet my special needs. Autism does not go away or disappear. Yet being in solitary confinement had left me with deep scars of being ignored, rejected, degraded, called autistic retard, stupid, because of meltdowns. To the human, I'm nothing. I sit in segregation again today. Today, because Nebraska doesn't understand my special needs. I'm locked in a cell for 48 hours with no break, showers. I can't flush my toilet. I have to sit on top of this toilet. I'm denied access to headphones, etcetera. It's pretty, it's pretty sad. So I'm here today hoping that the Judiciary Committee moves this forward.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

It's my hope you will step forward and commit to alternative ways to handling challenging youth. This, this bill, LB230, provides the groundwork to make these changes. We need to stop the institutionalized trauma and destruction of the lives of these bright but vulnerable human beings. Let's approach rehabilitation in a more sane, just, and compassionate manner and make my job a lot easier.

**LATHROP:** Thank you, Doctor. Senator Chambers.

**CHAMBERS:** If you were presented with the situation where parents locked their child in a closet and kept that child in the closet as a punishment, could that be considered child abuse?

**DIANE MARTI:** Mandatory duty to report. And some of the things I've given to you is where we have mental health individuals working with these individuals in solitary confinement and they're actually employees of the institution-- the prison institutions and they are making reports in these states because this is abusive. And our children, they're vulnerable. That's why we have minors, disabled, elderly. We need to protect them. And it's just-- it blows me away that we have our youth in these situations. And again, my son, I just look at this personally and I think this, this destroyed him. So I-- yeah.

**CHAMBERS:** Thank you.

**DIANE MARTI:** Um-hum.

**LATHROP:** I see no other questions. Thank you for your testimony and your expertise.

**DIANE MARTI:** You're welcome.

**LATHROP:** Next testifier. Good afternoon.

**DYLAN MURPHY:** Good afternoon. My name is Dylan Murphy, D-y-l-a-n M-u-r-p-h-y. I reside in Omaha, Nebraska. I am here today to testify before you in support of LB230 introduced by Senator Patty Pansing Brooks. This is my third time sitting before you to testify on the important issue which LB230 addresses: solitary confinement usage on juveniles in Nebraska. The first time I testified in front of you on the impact that experiencing solitary at age 14 had on me to be completely transparent was just the tipping point in my healing from those very experiences. This is because I was unaware until that time that what I had experienced in a local psychiatric facility as a

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Judiciary Committee February 14, 2019

teenager was in fact truly not OK. The re-traumatization I experienced each time I was placed in what was known as the quiet room left me with deep wounds that I have had to live with for almost 20 years. I think that merits repeating. It took almost 20 years for me to stop having flashbacks of the room they locked me in, to learn how to better control my own impulses, and to decrease my level of hyper vigilance. In other words, to stop subconsciously waiting every moment of every day of my life for someone to lock me in a room again as punishment for something they didn't like about me or something small that I had done. And this might sound exaggerated to some but only if you yourself have never experienced solitary confinement. I experienced years upon years of fear for my personal safety which negatively impacted my life in more ways than I could ever list before you in the short time I have today. Healing from my experiences of solitary has been incredibly trying. It has been some of the hardest work I have ever done in any given context. We know that adolescents have not had the life experience to gain emotional resources and skills to manage the level of distress caused by solitary confinement nor the time to even fully develop all critical regions of the brain such as the prefrontal cortex. The harm done to the brain at this age cannot be undone. The harm done to the brain at this age cannot be undone. This devastating damage deeply changes juveniles' cognitive abilities negatively impacting their social relationships, social identity, and other core developmental milestones. Taking this into consideration, along with the fact that other states have already implemented preventative interventions or alternatives to solitary successfully, I believe that based on my experiences it is fair to say that due to spending six months in a residential Nebraska facility as a teenager, I have consequently served a near 20-year sentence of unnecessary and unjust trauma. To have become involved with this important issue has ultimately changed my life for the better and yet I find it devastating that solitary confinement is still being allowed to be abused the way it is. Therefore, I will sit before this committee on this issue as many times as it takes until Nebraska's laws are changed, though I certainly hope that this will be the last time. You have the power to put an end to decades of potential trauma for Nebraska youth. I hope you will consider my story when you vote to advance LB230. I am willing to answer any questions you may have.

**LATHROP:** Thank you, Mr. Murphy. Senator Chambers.

**CHAMBERS:** I'm glad you're strong enough to continue this effort that you put forth. You don't look old enough to have experienced what you

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Judiciary Committee February 14, 2019

did. But your recitation of what you went through is why a lot of times I'll say on this floor-- on the floor of the Legislature, in these churches, and political talks, which I call yammering, they need to stop talking about what a compassionate caring state Nebraska is. By being on this committee, I get to hear people come and talk about horrendous experiences. And some of the senators are outraged, but I live in a state of outrage. And if you watch our debates on the floor, you'll see that I try to make it clear that lies are being told and misrepresentations are being presented from the Governor's Office, the Attorney General's Office, the head of HHS, the director of Corrections, all of these people who took an oath to do certain things that would be beneficial to the society and yet they do the opposite. And reporters, editorial writers, and others will continually, not all of them, talk about what a caring place Nebraska is. What a wonderful standard of life there is for the people. The happiness, the contentment, the care that people have for each other. Well, maybe they care for each other if those persons can speak up for themselves and fight for themselves. But when we have vulnerable young people or people who are not young but they have mental disabilities, it's as though they're looked at in the way that little boys are portrayed in some fairy tales. They pull the wings off butterflies and stick pins in beetles' eyes. That's what actually happens to people. And I'm going to watch and see if there has been any coverage of this hearing whether what you said will be covered. But that doesn't make a good story. But despite what other people think, how they react, I'm not saying this for dramatic effect but I see all young people as I see my children. And when people abuse children then those are people who in my way of thinking have no moral compass whatsoever. And even now I'm trying to put some things in the record of this hearing so that anybody who reads the transcript will know that a young person such as yourself who experienced these things but did not let it break him, did not let it daunt him, did not take away his spirit and his desire to prevent it from happening to others will be worthy of emulation. So if nobody else ever tells you those things, I want to say it here on the record and to you and I mean every word of it. So thank you for coming. Thank you for being willing to do this. And if we have to continue this fight, I hope you don't throw in the towel. You are a tribute to the resiliency of the human spirit and that is what I appreciate in you as much as anything else. So thank you.

**DYLAN MURPHY:** Thank you, Senator Chambers, very, very much.

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Judiciary Committee February 14, 2019

**LATHROP:** Thank you, Mr. Murphy. Next testifier. Good afternoon.

**JULIE WERTHEIMER:** Good afternoon, my name is Julie Wertheimer. I'm a graduate student in the Psychology and Law Program at the University of Nebraska-Lincoln. I was hired by the ACLU to code and analyze data regarding Nebraska's use of juvenile solitary confinement. My--

**LATHROP:** Can, can you spell your name for us?

**JULIE WERTHEIMER:** Oh, yes. J-u-l-i-e W-e-r-t-h-e-i-m-e-r. My supervisor, Dr. Wiener, and I also designed, implemented, and analyzed a community survey to evaluate how Nebraska residents view juvenile solitary confinement in Nebraska. I will speak about the methodology of the analyses and briefly describe the community survey and afterwards Dr. Wiener will testify about the results. I will first start with the solitary confinement data which is laid out in Part 1 of your handout. I need to note that each data point in the analysis represents an incident of confinement 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 different juvenile or whether some juveniles were confined multiple times. Wave 1 of data collection contains roughly 2,700 incidents of juvenile solitary confinement reported in, reported in Nebraska between July 2016 and September 2017. Wave 2 consists of the roughly 2,500 incidents reported between October 2017 and September 2018. The facilities and the number of incidents reported from each as shown in Figures 1 and 2. The ACLU sent Dr. Weiner and I the reports from the, from the facilities that reported the use of juvenile solitary confinement. We first coded common variables in the submitted reports and those major variables in the data set are listed in Table 1. I then constructed a data file containing those common variables in SPSS, which is statistical analysis software. To minimize errors, I gave each incident a unique ID number to help me match each line of data from the report to the correct line in the SPSS file. I copy and pasted lines from the report directly into the SPSS file where possible. And afterwards we double-checked and corrected any of the few minor observation errors that appeared unusual. The age gender and race of the youth in confinement are reported in Figures 3 through 6. So now I will turn to the Community Survey which is detailed in Part 2 of your handout. Participants were recruited through Prime Panels via Amazon's Concierge Services. Prime Panels collected data from a 100-- a 1,000 adult residents of Nebraska who passed all of our attention checks and took at least five but less than 70 minutes to complete the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

survey. Participants received a link to complete the survey on-line about their perceptions and beliefs of the use of solitary confinement in Nebraska. And the major variables in that data set are listed in Table 2. The age, gender, and race of the survey respondents are reported in Figures 6 through 8. But importantly, I want to make sure you notice that 74 percent of the participants indicated that they're registered voters in Nebraska. The purpose of our analyses was to calculate how many incidents of solitary confinement there were, who was confined, and how long they were confined, as well as how those numbers compared to the Nebraska community's expectations. I thank you. And I will take any questions.

**LATHROP:** I think this helps us see it in tables and that's very useful for us to see the trends and some of the demographics of the folks who are subject to the confinement we're here to talk about today. So we appreciate the report and the work that you've done.

**JULIE WERTHEIMER:** Thank you.

**LATHROP:** I don't see any other questions, but thank you so much for your testimony.

**JULIE WERTHEIMER:** OK. Thank you.

**RICHARD WIENER:** Good afternoon, my name is Richard Wiener, R-i-c-h-a-r-d W-i-e-n-e-r. I'm a faculty member at the University of Nebraska-Lincoln in the Law-Psychology Program. I will now summarize our analyses of the UNL data that Julie talked about and is all laid out in the handout that you have passed-- being passed around in front of you. The first analysis compared the percent of White European non-Latinx, African-American, and Latinx youth in the 2010 national census. The racial/ethnic breakdown of the youth in solitary confinement for both Wave 1 and Wave 2. Figure 1 shows that while approximately 83 percent of the youth in Nebraska were white, only about 32 percent of those in solitary confinement were white. However, while only about 5 percent of Nebraska youth are black and 11 percent are Latinx, the percent of solitary confinement incidents were 21 percent black and 13 percent Latinx. Black and Latinx youth are seriously overrepresented in solitary confinement in the state. Table 2 shows the duration of time spent in solitary confinement for each incident. In Wave 2, the mean number of hours per incident was lower than in Wave 1, but still exceeded 24 hours and ranged as high as 23 days. Most importantly, Figure 4 shows a Nebraska community sample believed youth should stay in solitary confinement for slightly under

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Judiciary Committee February 14, 2019

six hours which is much less than the twenty five and a half hour average in Wave 2. Thus, youth stay in solitary confinement much longer than expected by our community sample. The next analysis examines the number of hours each incident of solitary confinement broken down by the race and ethnicity of the youths. Figure 5 shows a wide variation in time spent in confinement for an average incident ranging from a high of 48 hours for Latinx youths in Wave 1 to a low of 16 hours for multiracial youth counterparts at Wave 1 and Latinx youth spent more time in solitary confinement than did their white counterparts in Wave 2. These results are troubling because there's no obvious reason why duration of confinement should vary significantly by the racial or ethnic origin of the youth. Figure 6 listed 12 most common reasons that the staff ordered at Wave 1 and Wave 2 for placing youth in solitary confinement along with the reasons that the Nebraska community sample expected. The most justifiable reason to place a child in solitary confinement is that the youth was physically out of control. Figure 7 summarizes the most common reasons that staff provided along with the reasons that the Nebraska community sample expected. In both Wave and Wave-- Wave 1 and Wave 2, the actual placements for being physically uncontrolled was much lower than the community expected and the placements for administrative reasons were much greater than expected possibly suggesting reasons for punishment-- reasons of punishment. In conclusion, some Nebraska youth spent as long as 23 days in confinement. There was an overrepresentation of black and Latinx youth and some staff placed youth in confinement for reasons other than the youth being physically out of control. Furthermore, a community sample of 1,000 Nebraskans found the amount of time that youth spent in solitary confinement to be four times too long and they found the reasons for placement out of line with their expectation. These data support restricting the use of solitary confinement for youth in Nebraska to no more than one hour and only when no other less restrictive means is possible.

**LATHROP:** Again, very helpful information, it, it helps quantify what we're here to talk about today. So I appreciate your testimony. I do not see any questions. Nope, I do. Senator Chambers.

**CHAMBERS:** One of the values that I see in this kind of professional expert testimony is that it may help people to see and maybe not how disconnected from reality they are when on television they'll see something like what happened in Iowa where two or maybe more little children were kept in a dog kennel in deplorable conditions and people who saw it they were outraged and Twitter or wherever people express

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Judiciary Committee February 14, 2019

their outrage it lit up. But then the state will do things. It's just a matter of degree in terms of difference. But essentially the action, the damage to the young people is the same. So if while all of you all are doing this wonderful work which it is you can somehow figure out how to make people connect in their mind what is happening.

**RICHARD WIENER:** Thanks.

**CHAMBERS:** And these circumstances that will outrage them are happening in institutions which are supposed to be helping children and yet they ho-hum and may not even take the time to find out. And when we have testimony of this kind that makes it crystal clear there is no impact. It's not that what you all are saying is not impactful in and of itself. People have become so calloused, so inured to hearing bad things at the hands of the state that nothing will result in terms of a mass outcry. But I want you to know that being one person, probably the most hated person, reviled person in this state, is listening, is hearing, and will do what can be done. And if we had a great cloud of people speaking no one person would have to raise his or her voice. But when we have only one voice, that voice must be magnified as through a megaphone and it seems to be too loud. But I'm going to take very seriously what you all present, make use of it. And all we can do is use that sower on top of this building as a metaphor. All that sower can do is throw the seed out there and other forces have it in their power to determine whether it's going to take root and grow. You all are throwing out the seeds. I will take them and throw them where I can and we'll just hope that they take root somewhere and our children are treated with the compassion, the concern, the love that they're entitled to and which so many of us may have yearned for when we were children and were denied. But now that we're old enough to do something to help other children we look the other way. And this is said in the hopes that it might let you know that your work is not in vain. You just don't see the results perhaps right now. But it will take effect somewhere. And maybe as Stevie Wonder said, in that someday at Christmas time maybe not in time for you and for me but someday-- I won't say at Christmas time, things may be better so keep at it.

**RICHARD WIENER:** I'd like to comment if I could about the connection that you refer to. One of the reasons that we collected the community survey data that's in front of you is to take a look at the discrepancy between what people in Nebraska, registered voters, think should happen with children staying in solitary confinement compared

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Judiciary Committee February 14, 2019

to what's actually happening. And in fact our, our community, our fellow citizens, believe that solitary confinement is being way overused as compared to how it should be used in the state. So I think those data do help make that connection.

**LATHROP:** Thank you, Doctor. We appreciate your testimony.

**JULIET SUMMERS:** Good afternoon, Chairman Lathrop, members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here on behalf of Voices for Children in Nebraska to support LB3--230. All youth in the juvenile justice system should receive rehabilitative services for a second chance to succeed. Outmoded and inhumane practices like the use of extended solitary confinement a.k.a. room confinement mar children's opportunity for rehabilitation and recovery. We support this bill because it will ensure youth in our state-run facilities do not experience those harmful effects. You've already heard about the brain science and I know are well aware of how this is even more damaging to children so I'll skip that part. And you've also got a wonderful data set in front of you quantifying some of the numbers around solitary confinement or room confinement in Nebraska so I'll skip that part. What I'll add to the written testimony you have in front of you is I-- one of the things I get to do with Voices is run a policy fellowship for young people who are currently involved in our juvenile justice system. This is a group of 10 students currently at Boys Town, there for a juvenile justice case. And this was one of the bills that we discussed with them. And of those 10 students who'd been identified as leaders interested in improving the system and well on their way to success, almost all of them had spent time in what they called room restriction or lockdown. And they had-- they're from all different parts of the state. They had spent that time in all different detention facilities in our state but they had really similar experiences so many of them described 23 hours in, one hour out where you're stuck by yourself for 23 hours. They described getting on the vents and I was like, what is getting on the vents? It's, it's-- the only person you have to talk to is another young person who's also isolated in a room and you speak to each other through the vent system. One young man described being placed for 7 days in isolation with 23 hours in and 20-- 1 hour out because he had talked back to staff. And during that week that he spent alone in a room he was given three books which he said he had finished by the end of the first morning and then he didn't know what to do with himself even his mattress had been taken away. So I-- you know, I just want to highlight all the young people that I spoke to about this strongly

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

support this bill. Other states and jurisdictions including our federal prison system have taken proactive steps to reduce or eliminate room confinement of children. It's the right thing to do and that is both from a moral and practical perspective. As a humane society, we just shouldn't tolerate it. We just shouldn't tolerate locking children alone in a room. And as a pragmatic society, we shouldn't expect that by doing so they would come out back to their homes and communities better prepared to be law-abiding citizens. Nebraska can do better and it is long past time that we did. So I'd like to thank Senator Pansing Brooks for her commitment to improving our system for kids and this committee for your commitment as well all your time and consideration. And I would strongly urge you to advance it.

**LATHROP:** Senator Brandt.

**BRANDT:** Thank you, Miss Summers, for testifying today. What are the alternatives to this?

**JULIET SUMMERS:** To solitary-- or to room confinement?

**BRANDT:** Yes.

**JULIET SUMMERS:** So facilities, jurisdictions, and states that have eliminated or reduced the use of room confinement have done so through different behavioral interventions. I think there may be a letter before you from-- or maybe multiple letters, from facility administrators and other states that talk about completely realigning the behavioral system within the facility to rely less on room confinement as an administrative penalty and to, to work from the proactive and positive youth intervention standpoint. And I do want to make clear that the bill does not address those instances where safety is threatened. That there's absolutely still a need in facilities with young people. If, if a physical threat or danger arises there may well need to be a cool down period where young people can be separated and have that time to cool down. What this bill would require is that, that is-- that's the only appropriate use of isolation and that when that young person has had the opportunity to cool down they're able to, to be reintegrated with the rest of their peer community.

**BRANDT:** Thank you.

**JULIET SUMMERS:** Thank you, Senator.

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Judiciary Committee February 14, 2019

**LATHROP:** Senator Chambers.

**CHAMBERS:** Another thing that we're gonna have to do as a state is hire better people. And that can be done only if you pay a decent salary. There was an industrialist named Armand Hammer, and he had his fingers in a lot of activities. And he stated that he was gonna make sure that he always paid his employees a very adequate salary for two reasons: to let them know that the work they do is appreciated and they'll be paid for it. But if they don't do it they'll be fired. And there are others who are willing to take that job. Then he concluded with this comment, if you pay peanuts you get monkeys. What we're talking about if you pay peanuts you get Nazi prison guards. They are cruel. They don't have any compassion and much of what they do, and this is not every person, just those who fit that category by their conduct. To be able to watch children mistreated in this fashion to me signals that something's seriously wrong is what they're confronted with. So as policy makers we are gonna have to look at all aspects of having qualified, competent people in these positions to take care of the children. But when you have a Governor and some senators who always say, we're gonna do all this but we're not gonna raise taxes, we're not going to tax here and on and on. The only way that the government obtains revenue is through taxation. So when the citizens buy into the notion that nobody should pay taxes, then when services are cut, they're getting what they're asking for although they're not directly asking for it. But if the services are cut when it comes to our children who are locked up in these institutions and out of sight and even adults who are locked away out of sight they don't care. But let a pothole develop in front of their house, let a street light go dark and it not be repaired, then they scream bloody murder. I have suggestions of what ought to be done to bring home to people what happens when adequate funds are not available. I'm not gonna specify because I'll be blamed for it if it happens. But I would be funneling money where the need is greatest. The people we're discussing here today. And let other things go where people will be aware of those other things going. But that's not the way politics works. If a mayor is aware that people complain about inadequate snow removal, then the children can go begging but the snow will be removed, removed. Not enough pickup of trash and enough outcry, the trash will be picked up and the children will be treated like trash. So if people could understand the necessity of insisting that money revenue be raised so that we can pay the adequate salaries then that doesn't guarantee that we're going to get what we need. But it will take away the excuse that exists now by saying we don't have enough salary that we can pay so

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

prison guards work 12 hours a day. And if you say you're gonna limit them to 12 hours a day nobody should work that long every day. But where the administration wants them to work even more hours per day it is a dysfunctional society. And let me tell you all why I'm mentioning that to you. You'll be coming back here every year to talk on a bill like this and the situation will have only grown worse because the public is unwilling to insist that money be spent where the issues that are being discussed here can be adequately addressed. Who would go to work in a field like this where you see so much misery, you see so much pain, you see so much unconcern? If you weren't given an adequate salary, you had to work another job to do this. It's not fun. So if those people who are working as you all are working need a salary so you can take care of your day-to-day situations. Think about the people who are making even less and nobody seems to care except they, their families, and some of these agencies whose job it is to look out for everybody. So in order not to testify myself every time somebody speaks what I said to that gentleman who was before you and what I'm saying to you goes for all of you to whom it applies and I'm not gonna extend this hearing by commenting or asking more questions.

**JULIET SUMMERS:** Thank you, Senator.

**LATHROP:** Thank you, Miss Summers. Next testifier, please. Good afternoon.

**BETH ANN BROOKS:** Good afternoon. I am Beth Ann Brooks, B-e-t-h, separate word, capital A-n-n, Brooks, B-r-o-o-k-s. I'm a Nebraska licensed physician from Lincoln representing the Nebraska Regional Council of the American Academy of Child and Adolescent Psychiatry, testifying in support of LB230. I'm a board certified psychiatrist and child adolescent psychiatrist who worked in downtown Detroit for four decades. So I am more than very familiar with the challenges facing today's youth, especially those who have mental health issues and/or involvement with the juvenile justice system. As the organization representing child psychiatry in Nebraska, we believe the current practice of prolonged room confinement is egregious in juvenile justice facilities, and we're relieved that this issue is receiving the attention it warrants. Nearly 15 years ago our parent organization the American Academy of Child and Adolescent Psychiatry published Recommendations for Juvenile Justice Reform and Practice Parameters for the Assessment and Treatment of Youth in Juvenile Detention and Correctional Facilities. Both of these documents addressed the need to avoid confinement when youth are held in detention. While it can be

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Judiciary Committee February 14, 2019

confining to manage disruptive youth being confined to a room should never be used as a means of coercion, discipline, convenience, or staff retaliation. Room confinement by its very nature allows minimal or no contact with people other than facility staff as has been aptly described. All less restrictive alternatives must be utilized first, particularly because room confinement subjects the youth to a degree of social isolation which can increase his or her anxiety as well as aggravate or precipitate serious mental health issues. The potential psychiatric consequences of prolonged room confinement are well-recognized and include depression, anxiety, and psychotic thinking. Due to their developmental vulnerability, again as previously described, juvenile offenders are at particular risk of adverse reactions. Furthermore, the majority of suicides in juvenile correctional facilities occurs when youth are isolated or in confinement. Room confinement can result not only in endangering a youth's physical and emotional welfare but also may prompt transfer to alternate settings to ensure the youth's safety, thereby incurring additional staff time and facility costs. You can refer to LB230 in terms of what it aims to provide and those basic aspects of adequate care can mitigate the more serious consequences of room confinement. But it's important to implement those alternate interventions before room confinement becomes necessary as a last resort. We recognize the challenges to youth being confined in state juvenile detention facilities, but we're committed to advocating for their safe and nonpunitive treatment. We thank doctor-- we thank Senator Pansing Brooks for raising this issue and hope that you would act favorably on this in one important step to improve juvenile justice system in Nebraska.

**LATHROP:** Very good. Thanks, Dr. Brooks. We appreciate your expertise and your testimony. Next proponent.

**PAIGE LARSON:** Thank you, Chairman Lathrop and members of the Judiciary Committee. My name is Paige Larson, P-a-i-g-e L-a-r-s-o-n. And I don't know what more I could say about this bill that everyone else hasn't already, but I will do my best. For the past two years, I've worked with local youth dealing with the realities of the juvenile justice system. I've worked for the Juvenile Justice Institute and Cedars Youth Services. But today, I'm only testifying on behalf of myself and Nebraska's youth who have been victims of a cruel and ineffective punishment. Today, I'll tell you a story from the youth that I've worked with and how the use of solitary confinement has affected their lives. I've been working with a girl out of Geneva for about a year

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

and a half now. When I first met her she came from western Nebraska and she was not happy about where she was at, but she'd been given a clear path to get out of YRTC. If she followed the rules, exhibited positive behavior, and made genuine effort towards upward change, than she could be released within as soon as four months. At YRTC there are four levels depending on your behavior, of what kind of privileges you get, and the freedom you're allotted. There is yellow for level one, orange for two, green for three, and level four is a neon pink. By the time I saw her in January from when I had met her in October she came out in the visitor's room every time in a different color shirt. By early February, she was a neon pink and I was absolutely elated. She clearly had worked hard and she made genuine change in her behaviors because she wanted to go home and she felt genuine guilt and remorse for what she had done. But a year ago this month, she was supposed to have a hearing that would decide her placement and ultimately be the day she was allowed to return home. And as I arrived to Geneva before 1 p.m. when the hearing was supposed to happen, I found out that it had been cancelled without notice. When I asked why, staff were reluctant to tell me but they were eager to tell me that she was in a state of escalation and this didn't shock me considering I would be mad too if I didn't get to go home. She-- I asked if I could try and meet with her to de-escalate her and after some reluctance they agreed and after a little while she walked towards me. I saw that she was already back to wearing a yellow sweatshirt. She had dropped four levels in one day. I asked her if she knew why her hearing was canceled and she said the judge hadn't cleared her and her dad didn't want her because she was bad. Her dad had been telling her for months that she could live with him once she was released and after some digging with her caseworker, I found out on the day of her hearing her father said, and I quote, nope, I don't want her. I don't want her to live here and I don't want to see her and that was it. Staff told her that this was the reason the judge didn't clear her of her sanctions. And then to make things worse, they informed her that her own father didn't want her because she was bad. So instead of going about her day as if nothing had changed she understandably got upset. She was defiant. She was angry. She was verbally aggressive and instead of staff making an attempt to understand why she could be behaving like this, they threw her in confinement until I was allowed to see her. Over the past 12 months, she's been placed in solitary confinement 9 times for stays of 6 to 72 hours. And considering what we've heard that may not sound like a lot but for minor things like not wanting to come out of your room, or coming out of your room at the wrong time, for snapping at a teacher, yelling at another youth, or defending a

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Judiciary Committee February 14, 2019

friend, it's ridiculous. These are things that for many of us on the outside that we wouldn't understand. And so because of the confinement, I really urge you to move LB230 forward.

**LATHROP:** Thank you.

**PAIGE LARSON:** Thank you.

**LATHROP:** Thank you, Paige, for your testimony and what you do for those young people you work with. Next testifier, please. Good afternoon.

**MARY KATHLEEN OGLE:** Hi, my name is Mary Kathleen Ogle, M-a-r-y K-a-t-h-l-e-e-n Ogle, O-g-l-e. I'm a licensed clinical social worker and I most commonly known as Kathy Ogle. I worked two days a week at YRTC- Geneva as a contract mental health therapist for approximately 11 months in 2017. During that time, I regularly interacted with youth in room confinement. Youth in room confinement were seen and evaluated every 24 hours by a mental health professional. They were placed in room confinement for a variety of reasons such as physical conflict with peers or staff, suicidal ideation, running away from the center, destruction of property, and out-of-control behavior. I saw times when I strongly felt that this staff exacerbated situations with youth and that a gentler approach would have diffused the situation. I also saw some staff to be very caring and compassionate and I might add that usually had positive results. There was no specific time limits on how long you stayed in room confinement. They were usually giving repair work by staff to be done when they were returned-- before they were returned to their housing. Some youth spent a few hours and others, others spent several days. The rooms were very sparse with a metal bed and mattress as well as a toilet. While in a room confinement for suicidal ideation or self-harm behaviors, they were not allowed to wear their regular staff-issued clothing and instead wore short-sleeved cotton shirts and shorts and were not allowed for safety reasons to wear their underwear. They were given padded sleeveless smocks and padded blankets that could be-- not be tied into knots for sleeping so they couldn't hang themselves. On one occasion, I saw a 14-year-old youth who was allowed out of her room into the day hall in the evening wearing her shorts and short-sleeve shirts with her padded blanket around her. She was told that she could not have the blanket in the day hall. I directed staff to get a regular blanket while in the day hall, because it was very cold in there. I was cold. I was told that could not be done and if she was cold she could go back to her room and cover up with the padded blanket. I found this to be

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Judiciary Committee February 14, 2019

punitive and unreasonable on the part of the staff. Despite YRTC having the word treatment in the title, I quickly learned while working there that treatment had-- was a very low priority for the youth due to lack of availability to the youth by the therapist. The girls were in school most of the day and the therapists were not allowed to take the girls from a class for a therapy session. The girls were, however, allowed to leave class to meet with their probation officers, their mentors from the community, visits with the families, and telephone conference calls with their caseworkers. Some therapy sessions were held during the time youth had study halls which was less than ideal due to the short amount of time and lack of privacy. Most days youth were required to attend some short of-- sort of group immediately after school. I found the culture at YRTC to be more of a correctional model than a treatment model. An example being a 16-year-old girl who was confined to LaFlesche Cottage for 24 hours a day for months. She'd been kicked out of school and spent her days in the cottage playing video games, reading, and sleeping. She was starved for attention and social action-- interaction with her peers which was not encouraged by staff. Needless to say, she did not progress during those months. I believe the room confinement is a necessary evil because at times youth are out of control and need to be separated for their safety as well as the safety of other youth and staff. I also believe that once the youth has gained control they should be allowed to return to their regular activities. While in confinement, I think they should be allowed to have reading material to occupy themselves and possibly take their minds off their issues. I do not think extend-- extended periods of time in isolation with nothing to do is in any way helpful to improving mental health and pro-social behavior.

**LATHROP:** OK.

**MARY KATHLEEN OGLE:** Thank you.

**LATHROP:** Thank you for your testimony and sharing your experience.

**MARY KATHLEEN OGLE:** Um-hum.

**LATHROP:** Appreciate it. Next testifier. Good afternoon.

**JASON WITMER:** Good afternoon. I'm Jason Witmer. I represent the Mental Health Association. I also have considerable amount of time in the corrections as a youth and as an adult. I've been in Geneva and Kearney, both of which I've served in solitary confinement, room

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

restriction, whatever they term it. In adult, I have at least eight years of solitary confinement. Not at all at once. I think the longest period was two years.

**LATHROP:** Could you spell your name for us?

**JASON WITMER:** Witmer, W-i-t-m-e-r. And from hearing the stories I don't think I need to go into explicit story of myself about how it feels, how to be-- how it feels to be isolated, how the anger and the hurt and all that builds nor do I need to go into the statistics. UNL did quite a good job. And I don't think it's-- I think it's a fact that solitary confinement has been proven that it, it has a long-term mental, emotional, and behavioral issue impact on an individual. So what I would like to say is that we seem to fall into tough on crime policies and have no-- that have no long-term positive impact which our correctional system is showing by bursting over to the seams right now. And now we're kind of using these same tough on crime policies, we still are using these same tough on crime policies within the facilities with our youth, with our children. And I want to say that tough on crime is not tough love. Tough love is a hard thing, but it's, it's a-- when you use tough love, it's a conversation with the individual-- the child about what's going on, the misbehavior and about-- it includes the strengths because you don't want to lose the potential when you're talking about what was wrong was done. It has accountability. It has consequences. It's a loss of privilege. It's something that they, they may think they-- you know, deserve or they like. But I want to say is, when did privileges become dignity? Because that's what's happening here. Dignity is a right. It's not a privilege. It's a right. A human dignity is a right. And we shouldn't be using to take it away dignity. So when did our value in children become a value system with so many exceptions. Sorry.

**LATHROP:** It's all right.

**JASON WITMER:** I realize I can't understand the difficulties and the weight of your decisions. However, I believe that job or responsibilities or political positions or religion or ethnicity or any community would stand up and say that they believe that only some children matter while the rest-- so this bill values all children. At a minimum, I believe that even with this divided political system that we seem to have that we here in Nebraska in the Heartland where, where we have a motto that says, equality before the law, that we believe that dignity is a right. It's not a privilege to be taken as a consequence. And as far as asking what we could do just in simplicity

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

terms is restrain-- restrain, do not isolate. I think it's in the-- it's written restrain, do not isolate. That is-- there's no requirement for it to go on and on and on. We're talking about our youths here. So restrain, do not isolate. Do not discount the children, our children who are in most need of your protection. And that's what this bill is. This is time to protect the vulnerable.

**LATHROP:** Thank you.

**JASON WITMER:** Thanks.

**LATHROP:** Thanks for your testimony. I appreciate you sharing your experience, too. It was obviously tough. Yeah, thank you.

**JASON WITMER:** Thanks.

**LATHROP:** Good afternoon.

**SCOUT RICHTERS:** Good afternoon. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska. I am circulating written testimony and I'm also circulating a petition in support of the bill that has gotten over 400 Nebraska signees since it was launched just on Monday. Nebraska kids placed in juvenile and correctional facilities deserve rehabilitation not solitary confinement. Passing LB230 is really consistent with state level and national trends. We have a roadmap from numerous states that really detail alternatives to solitary confinement that have been shown to be effective. At the federal level, the recently passed First Step Act mandates that juvenile solitary cannot be used as punishment. And really Nebraska kids deserve to bene-- benefit from this growing body of research and wave of reform that is happening across the country. I also wanted to address that by failing to address this issue in the Legislature, we do risk costly and lengthy litigation. Changes in states are happening both because of legislative action as well as court action. My written testimony details some recent monetary settlements from other states that have resulted from litigation on this issue. So really by working in the Legislature on this issue we can take a collaborative rather than adversarial approach and really work together to do better for Nebraska kids. I did want to also briefly mention the fiscal note. We do appreciate that this is a more thoughtful consideration of the costs of implementing this legislation than say last year's appropriation for a fence at YRTC-Kearney. Yet, we would also encourage the facilities to not only consider things like staffing but also things like trauma-informed training to really

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

solve this problem at the ground level. You already heard about some of the numbers from the data analysis that was conducted. But really the numbers show that facil-- while some facilities are improving in their numbers and are even meeting best, best practices we still see inconsistencies between facilities' significant racial disparities in those placed in confinement and the practice still being used as punishment in some cases. So we want to reiterate our thank you to Senator Pansing Brooks and urge your support of LB230 and to do better for Nebraska children. And I would be happy to answer any questions.

**LATHROP:** I see no questions. Thank you, Miss Richters.

**SCOUT RICHTERS:** Thank you.

**TOM MILLER:** Good afternoon. My name is Tom Miller, T-o-m M-i-l-l-e-r, and I want to speak in support of LB230. I have worked with children and adolescents in various capacities since 1986. I was a family teacher at Boys Town for a number of years. I provided residential support services to adolescent girls and children through the Nebraska Center for Children and Youth and I was also involved with TeamMates which is a mentoring program for 18 years. I've personally witnessed adolescents when they were having emotional and mental breakdowns. And I know how important it is to protect them with love and support during those times and to make them and others around them feel safe. It is important for them to know that they are cared for and not felt as though they're being punished. Because of their previous life experiences, many adolescents are traumatized and they need to know that they are unconditionally loved no matter what they do and that they will receive support from appropriate mental health services and other staff to provide them support. There is extensive research to show that the use of solitary confinement with juveniles has devastating long-term impacts on their well-being and their ability to contribute to society. There is also research that shows that to build resilience to overcome obstacles to persevere when problems arise and to bounce back from adversity that relationships and connections are very important for juveniles, relationships with other people including peers and adults. Room confinement removes the possibility of social interaction. So it is important that juveniles have authentic relationships and can genuinely talk to someone who is nonjudgmental when they are having a difficult time. And that room confinement, if needed, become very brief and documented. Again, I want to support LB230 and hope that it soon gets advanced and thank you Senator Pansing Brooks for the bill. Appreciate it.

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Judiciary Committee February 14, 2019

**LATHROP:** Senator DeBoer.

**TOM MILLER:** Thank you.

**LATHROP:** Hang on just one second, Mr. Miller, there's a question over here.

**TOM MILLER:** OK.

**DeBOER:** Thank you so much for your testimony. In your experience as a family teacher at Boys Town as well as the other experience that you list here, can you give us an example or two of the kinds of things that you might use to reward good behavior or sort of work against bad behavior--

**TOM MILLER:** Sure.

**DeBOER:** --or something like that that would not involve this kind of confinement?

**TOM MILLER:** Well, one of the things when a child is out of control-- when I was at Boys Town and also at the Nebraska Center for Children and Youth our mode was to stick with the person, to use a calm voice to let them know that we were going to give them opportunities for positive points because at Boys Town we had a point card. And no matter how long it took, it could take hours. I mean, I've been in situations where a young man was out of control for hours. And the next day he would come up to me and he said, you really meant it that you cared for me because you were with me the whole time. And I've also had situations where a person said, I could tell that you didn't want to get rid of me because you stayed with us. I was with kids that were removed from homes when they acted out. But I was in situations where we would stay with kids no matter what. And I think it was really important for them to know that a person was around them to help them to answer questions and to talk to them about their concerns and to come up with a plan and, and make goals. So we-- I've never been in a situation at Boys Town or at Nebraska Center for Children and Youth where we used any kind of room confinement. We would ask other children maybe to go to their rooms when a person was throwing things out of control. But usually in a very short period of time the person would come under control and begin talking and then you could work on plans for positive reinforcement.

**DeBOER:** Thank you.

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Judiciary Committee February 14, 2019

**TOM MILLER:** Um-hum.

**LATHROP:** Thank you very much for your testimony.

**TOM MILLER:** Sure. Thank you.

**LATHROP:** Good afternoon.

**PAUL FEILMANN:** Good afternoon. I've been waiting for this for quite a while. I'm gonna deviate from protocol just a little bit. Bear with me, I'll try and explain my rationale. I'm gonna ask for your assistance. There's a situation that I think only you guys can help me with unless you can tell me somebody else who can help me with it.

**LATHROP:** Can you start with your name?

**PAUL FEILMANN:** Yes, I'm Paul Feilmann, F-e-i-l-m-a-n-n. I'm a licensed mental health therapist, number 851. I'm currently retired. There is a situation in the Lincoln State Penitentiary and the reason I'm addressing this, it does have to do with solitary confinement which is kind of the core issue being discussed today. There's a situation in the Lincoln State Penitentiary where there is a number of individuals being held in solitary confinement. They are being held in a unit referred to as the control unit. If you refer to page 4 in the handout that I gave you, there's a starred section there. This was written by-- this was information provided in a court hearing in Canada in January of 2018. It summarizes the mental health effects of solitary confinement. And this was drawn from testimony from Mr.-- Dr. Craig Haney who is then researching the effects of incarceration on individuals for 20 to 30 years. He described what he said here, the judge referred to his testimony and said, solitary confinement poses significant risk of serious psychological harm to inmates, increasing the risk of mental pain, suffering, self-harm, suicide. Solitary confinement causes a range of psychological effects including anxiety, withdrawal, hypersensitivity, cognitive dysfunction, hallucination, aggression, rage, paranoia, self-mutilation, hopelessness, all of which are exacerbated for mentally ill patients. The, the thing I'm asking is that-- the, the reason I'm bringing his testimony up is he has come into Nebraska. He's been granted access to the Penitentiary and he has said that he has evaluated states-- or solitary units in 30 states and this control unit is the worst solitary unit he's ever seen. I've talked to reporter in Lincoln and I've also talked to Tony Vargas about the situation and I'm asking for you guys to consider going in with Doug Koebernick, who I've talked to extensively, and he

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

has been in this unit and describes the same things but we can't seem to get any traction in getting anybody to look at it. I know my time's running out and I'm gonna plan on testifying again on the LB739, which Tony Vargas introduced as well. Any response to my request before I take off?

**LATHROP:** Well, I can share this with you. I've been-- we've started in 2014 when we did the special investigative committee into the Department of Corrections that included an assessment of the use of solitary confinement and the psychological effect upon folks that are subjected to it. I don't know that anybody up at this panel isn't aware of it.

**PAUL FEILMANN:** Has anybody seen this control unit? Because I--

**LATHROP:** I don't know if I'd been in that control unit or not. I've been into some control units. But I-- you may not know this but I work closely with the Inspector General who gives me regular updates. We're doing what we can. I think it goes back to a point Senator Chambers made earlier which is having the resources to fix the problem.

**PAUL FEILMANN:** Right. I do think you have the, you have the ability to go with Doug to see that control unit and, and maybe publicize more of what's going on. The other thing I will just say in parting, in-- I put together all the research that I could find on solitary confinement in here including the UN resolution which makes it--

**LATHROP:** Torture.

**PAUL FEILMANN:** --torture after 15 days. But the thing that Doug Koebernick said he had never seen before was the video that's cited in the first page. It shows three years of solitary confinement unit in the state of Maine. He said it's exactly like in Nebraska. So if you can't go see these control units, if you could publicize this video, Doug Koebernick has spoke about it. He and I have discussed it at length. It's as close to going to those units as possible. And if, and if people can look at it, it's called Last Days of Solitary. It's on PBS Frontline.

**LATHROP:** OK.

**PAUL FEILMANN:** Thank you for your time.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**LATHROP:** Nope, thank you. I see no other questions. Thank you, Mr. Feilmann. Anybody here-- any additional testimony in support of LB230? Anyone here in opposition to LB230?

**LARRY STORER:** Did you just ask for opposition?

**LATHROP:** Yes, I asked for opposition.

**LARRY STORER:** Thank you. My name is Larry Storer, 5015 Lafayette, Avenue, Omaha, Nebraska 68132, District 6-- District 8, I'm sorry. This has been a little painful for me today, too. My grandson just turned 19. He hasn't been in juvenile justice, but he's been in the welfare system for a lot of years. And I've tried to advocate for him. But you know what, the system here in Nebraska doesn't allow for that. Grandparents don't have standing. The laws on special education, and DD services, group homes, and things don't seem to really be followed as they're intended. The mission statements of various organizations that have been brought in-- I guess the state of Nebraska invited a Pennsylvania judge in here. Maybe it was 2014 to tell us how to save our children and then we spread programs over to the university and we brought in the Sherwood Foundation. And they went to studying the kids in the juvenile justice center and came up with a lot of disparity things. And now we're seeing the fruits of it. But what I'd like to ask is, is good intention well-intentioned as all of these agencies that we've had in Omaha and in Nebraska a lot of them charitable, why aren't we having the problems we're having and why do we need another law? It's getting out of hand. My grandson went through a lot of this stuff you're talking about and you're hearing about today. And I tried to advocate for him against some of that stuff. But of over all those years the people practicing and trying to do good don't understand the inner workings of the mind for particularly for kids that are disadvantaged, incarcerated, detained. That's what we call them now. And it was all about tough love. We heard that. Tough love doesn't always work. Locking them up doesn't work, but setting them free doesn't work either. So everybody needs to start listening to people of the second house. In Nebraska we don't have two houses, do we? We have one Unicameral. I'll end up real quickly with another constitutional issue. Mr. Wayne opened that in one of his amendments and he made a statement from one of the Founding Fathers from I believe it was a Federalist Paper 50 or 51. That the government ought to be afraid of the people. But unfortunately he didn't go on to say everything-- was it Sam Adams? I can't remember. But that particular Founding Father went on to say that we're not talking about democracy.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

We're not talking about a single republic. He was talking and they were talking about a compound republic. Do any of you know what that is? That is a three separation of powers government. We do not have that in Nebraska. I am one of those second house people.

**LATHROP:** We understand that.

**LARRY STORER:** And I, I-- I'm sorry folks, but the people in the second house don't have-- we don't get the information that's printed here and we'd like to know why.

**LATHROP:** OK.

**LARRY STORER:** This is how our tax dollars go into that see. Thank you.

**LATHROP:** Thank you, Mr. Storer. Anyone else here in opposition to LB230? Neutral testimony, please. Welcome.

**JULIE ROGERS:** Good afternoon, Chairperson Lathrop and members of the Judiciary Committee. For the record, my name is Julie Rogers, J-u-l-i-e R-o-g-e-r-s, and I serve as the Inspector General of Nebraska Child Welfare. Our office is charged with reviewing juvenile room confinement reports submitted by juvenile facilities and publishing an annual report which assesses the use of room confinement and identifies changes to reduce the use of room confinement. The 2018 annual report is our second annual report and is part of the materials provided today. My full testimony is also provided. I'll just go over some highlights. The report contains information on best practices and standards for the use of juvenile room confinement and identifies changes facilities can implement that lead to reduction of use in Nebraska facilities. These include the adoption of best practices: juvenile room confinement should be used as a last resort; should be time limited and closely monitored. LB230 sets forth these best practices. In addition, we name changes that can be implemented within facilities to reduce room confinement and include leadership to reduce the use of room confinement. That's a requirement. A change in administrative thinking, facility culture, and a shift in facility vision, values, and philosophies related to the use of room confinement is necessary for successful change. Work force development should focus on being trauma informed and include alternatives to the use of room confinement and those alternatives should be built into policy and procedure. Staff should be provided intensive, initial, and ongoing training on the alternatives. As you've heard from July 2017 through June of 2018 there are total of 2,686 incidents of confinement

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

at seven facilities involving 4-- 546 individual youth ages 11 to 18 years old. Reported confinements were as short as an hour and 15 minutes and as long as 298 days. The incident frequency and time of room confinement for the state went generally unchanged from the year prior. Three of the four detention centers, those in Lancaster, Madison, and Sarpy counties ended room confinement incidents within 8 hours or less 95 to 100 percent of the time. Though where-- there were improvements by some facilities, other facilities had little to no changes in the frequency and time youth in their facilities spent in juvenile room confinement. The Nebraska Correctional Youth Facility, under the Department of Correctional Services, showed little change in curbing the use of restrictive housing. The Douglas County Youth Center, or DCYC, was the only juvenile detention center that did not improve in the 8 hours or less category of room confinement. DCYC went from 6 percent of room confinement occurrences ending in 8 hours or less. In fiscal year 16-17 to less than 1 percent in fiscal year 17-18 ending in 8 hours or less. You'd have the rest of my testimony. Thank you to Senator Pansing Brooks for the leadership on this issue and I'm happy to answer any questions.

**LATHROP:** I got a question for you.

**JULIE ROGERS:** Um-hum.

**LATHROP:** It sounds like-- so we got the statistics from the folks at the university that shared their testimony and provided us with a bunch of graphs and things that show that we still have a problem. Your report suggests we still have a problem and I can't help but notice that we seem to be trying to legislate people to do what they should be doing in the first place. This bill's an example of that. We shouldn't have to tell-- I mean, this should be obvious to the people that are working in these facilities and yet it's still going on at rates that are unacceptable. And so now we're going to consider LB230. And in there, Senator Pansing Brooks has set out some criteria for the use of confinement.

**JULIE ROGERS:** Yes.

**LATHROP:** If we pass this bill, is it gonna matter? Are these people gonna do something different after we pass this bill than what they're doing right now?

**JULIE ROGERS:** I don't--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**LATHROP:** Because I-- we, we, we seem to be wanting to legislate-- I'm not-- this is not a criticism. I'm supporting after listening to this today. But I just don't know when we look at the Department of Corrections, and then we take up the juvenile justice issues with confinement of juveniles. We can see just from two testifiers today, the long-term problem it causes. We've had experts come through here, and I've been gone for four years, but this is not new to this committee. We've had experts come in and talk about the problems created by, by solitary confinement of one form or another. We studied Nikko Jenkins in 2014, who was a case study in this topic. A case study on solitary confinement and still we-- now, now we're trying to legislate our way through to a solution that feels to me like maybe we got the wrong people or people who don't have sufficient training or people-- I don't know if manda-- is mandatory and overtime a problem with these guys, too?

**JULIE ROGERS:** Yes.

**LATHROP:** OK. So now we got a little bit of a Beatrice State Developmental Center problem, a Department of Corrections problem. And it's here, it's at the youth facilities now where people don't have the patience to deal with children that are going through a difficult thing. And so we're gonna send them to their room for days. For days ignoring the problems that it causes them long-term which are obvious. We didn't need the experts to come in here today. But they did. Psychologists, psychiatrists and they tell us, they tell us that this stuff is causing long-term problems. And still it's going on. And we'll take up this bill and I suspect-- I don't think it's gonna have any trouble getting out of this committee. But then we, we make it the law of the land. Is it gonna make a difference?

**JULIE ROGERS:** I don't know if it will make a difference to those facilities that are unchanging in their use of room confinement. The facilities-- so the first thing that best practices say to do is what the state of Nebraska has done, require the facilities to report and report publicly which is the law here.

**LATHROP:** They're not even embarrassed by this stuff.

**JULIE ROGERS:** So the ones I think that the ones who have taken this seriously. They-- there's-- I, I believe there's one detention center who has 100 percent of their incidents is under 8 hours and very few are over 4 hours. So there are those facilities that-- and these-- this is a wide range of facilities. Those that still use it, and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

there's not a culture change of alternatives to use, I don't know that it would make a difference. The enforcement mechanisms to reporting and reporting this information correctly is with the Crime Commission and with public health licensing. Those rules and regulations have not been, to my knowledge, drafted.

**LATHROP:** Wait a minute. Say that again.

**JULIE ROGERS:** So on the reporting side, which is what we report on, there is a provision that a bill, bill last year put in the statute that sanctions for not reporting correctly or not recording these correctly will go through either the Jail Standards Board under the Crime Commission, their rules and regs, or public health's licensing rules and regs.

**LATHROP:** Do you think the information we have is accurate?

**JULIE ROGERS:** Most of it's accurate. We've had to clarify a lot of ways of reporting.

**LATHROP:** OK. I want to ask a, a, a more specific question. On page 4 of this bill, line 6, a juvenile shall not be placed in room confinement for any of the following reasons: punishment for disciplinary sanction. The second one is, a response to staff shortages; or three, in retaliation against the juvenile by staff.

**JULIE ROGERS:** Yes.

**LATHROP:** This isn't self-evident? These things-- these are things that kids are being confined for.

**JULIE ROGERS:** So for example, at the YRTC's, I, I believe a previous testifier has said that in their rules and regs or operating procedures, they are allowed to put a juvenile on room confinement for punishment. In August-- so it wouldn't, it wouldn't be reported in our reports. In August, they came out with memos at both YRTC's that they are not allowed to put a youth in room confinement because of punishment or disciplinary sanction. I don't know if the numbers will bear that out or change the use of room confinement.

**LATHROP:** So--

**JULIE ROGERS:** There are different ways for facilities to categorize reasons for putting youth into room confinement. And one might be

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

punishment or disciplinary sanction, the other might be escalating behaviors.

**LATHROP:** I'm gonna put you on the spot.

**JULIE ROGERS:** OK.

**LATHROP:** Why is this going on? Tell me-- because when we, when we, been through a couple special investigative committees,--

**JULIE ROGERS:** Yep.

**LATHROP:** --when we looked at the Beatrice State Developmental Center there was mandatory overtime. There was a-- morale was at the bottom. We had people that hadn't been trained to handle that population. And we could, we could see what the fundamental problem was. We've looked into the Department of Corrections. We have mandatory overtime. We have some morale problems on the staffing side. We have overcrowding, and overcrowding has led to a whole variety of symptoms--

**JULIE ROGERS:** Right.

**LATHROP:** --that are also the subject of several bills before this committee. What's the underlying problem? Why is this happening?

**JULIE ROGERS:** I think it's leadership. I think it's training on--

**LATHROP:** How far up? Who, who are we talking about when you talk about leadership? Are we talking about somebody over at the Department of Health and Human Services or we talking about somebody that's running a particular facility?

**JULIE ROGERS:** The folks running the particular facility.

**LATHROP:** OK.

**JULIE ROGERS:** That's what we see when we visit a facility and--

**LATHROP:** When we see the graphs that we saw from one of the previous testifiers, and we see little to no improvement in--

**JULIE ROGERS:** Um-hum.

**LATHROP:** --the use of solitary confinement for juveniles at particular facilities, those people that continue to use it or those facilities

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

that continue to use it at high rates are people we should look at the leadership of those facilities.

**JULIE ROGERS:** I think so because they are in charge of training their staff on alternatives to using this. If you have staff that are, are working shifts and having to do mandatory overtime they're tired. This might be an easier thing to manage kids if you're short staffed to put them in juvenile room confinement. So I think it's--

**LATHROP:** Are we get short staffed in these places?

**JULIE ROGERS:** So the YRTC's are better because of the Prison Rape Elimination Act requires a certain amount of youth to staff ratio. I think that those, those staffs-- staffing's are OK. I haven't heard that they're not.

**LATHROP:** Are they being properly trained?

**JULIE ROGERS:** I think they could be trained better.

**LATHROP:** Is that because we don't want to spend the money on training or give them the time to go get the training? Where's the problem with the training? This stuff-- I can't imagine anybody getting proper training wouldn't be told is the standard.

**JULIE ROGERS:** Yes. I think there's an effort depending on what facility you're talking about in our report. It's, it's facilities everywhere from a detention center that barely uses it, like in Sarpy County for example, to the Nebraska Youth Center under the Department of Corrections. So I mean, I, I don't-- across the board, I would say training is an issue especially in trauma-informed practices, how to treat youth. I know there are facilities that are trying to work on it. I think it's a combination of all those things.

**LATHROP:** Well, I appreciate you answering my questions. I hope I didn't make your job awkward when you have to go into these places.

**JULIE ROGERS:** It's fine. That's why I'm here.

**LATHROP:** Your eyes and ears.

**JULIE ROGERS:** Yep.

**LATHROP:** I appreciate that, Miss Rogers. Senator Brandt.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**BRANDT:** Thank you, Chairman Lathrop. Thank you for appearing before the committee. I know this is always fun. We have a fiscal note on this bill of three and a half million dollars to add 12 corporals and 30 specialists. Would that-- do we even need to do that or we can do it with what's there now?

**JULIE ROGERS:** And, and you're talking-- I'm sorry, I don't have the fiscal note in front of me. Are you talking specifically for the Department of Correctional Services or--

**BRANDT:** I would assume that's,--

**JULIE ROGERS:** --the YRTC's?

**BRANDT:** --I would assume that's where this is gonna go, yes.

**JULIE ROGERS:** So, so at the Department of Correctional Services it's, it's a-- the rules on juvenile room confinement-- what we consider juvenile room confinement is restrictive housing and it's-- I think it's restrictive. The use of restrictive housing is a problem across the whole correctional system from my understanding. I am not sure.

**BRANDT:** I'm gonna make an assumption here that when you write a bill and then it goes to the fiscal office that they come back, they had talked to this department and this department says to implement this bill or fix this problem, it's gonna take this amount of money.

**JULIE ROGERS:** Right.

**BRANDT:** Which in this case--

**JULIE ROGERS:** If--

**BRANDT:** --with as many bodies to fix this problem.

**JULIE ROGERS:** Yes. If they didn't use it so much then they wouldn't need as many staff to continuously monitor the use of room confinement--

**BRANDT:** Thank you.

**JULIE ROGERS:** --across any facility.

**BRANDT:** Yep.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**LATHROP:** Here's the other thing. Even if they had to hire them they couldn't hire because nobody wants to work for them. We can't staff the, we can't staff the facilities we have. These would just be vacancies. A complete frustration I might add to the Appropriations Committee but-- I don't see any other questions. Thank you,--

**JULIE ROGERS:** OK. Thank you.

**LATHROP:** --Miss Rogers for your testimony. Good afternoon.

**ELAINE MENZEL:** Good Afternoon, Chairman Lathrop and members of the Judiciary Committee. For the record, my name is Elaine Menzel, that's E-l-a-i-n-e M-e-n-z-e-l. I'm here today appearing on behalf of the Nebraska Association of County Officials in a neutral capacity to LB230. And I almost hate to bring this up, but the reason we're here is in large part, not, not because we're thanking Senator Pansing Brooks by any means, but because of the reason with which we brought language to her and that relates to the continually monitor and just appreciate her willingness to look at that issue and address our concerns associated with that as well as to continue to work with us meaning county representatives in dealing with issues that arise as a result of her initially introducing legislation a couple of years ago and through the years on this issue.

**LATHROP:** OK.

**ELAINE MENZEL:** I, I--

**LATHROP:** I think she addressed that with an amendment.

**ELAINE MENZEL:** She, she did, yes.

**LATHROP:** OK. Thank you.

**ELAINE MENZEL:** Appreciate that.

**LATHROP:** I do not see any questions. Thank you for your--

**ELAINE MENZEL:** Thank you.

**LATHROP:** --testimony. Anyone else here to testify in a neutral capacity? Senator Pansing Brooks. We do have-- it looks like four letters in support that will be made part of the record. And with that, you're good to close.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**PANSING BROOKS:** OK. I was going to waive, but then you asked the final questions, Vice Chair-- or you're the Chair. [LAUGHTER] It is late, Chair Lathrop.

**LATHROP:** I got a demotion, apparently.

**PANSING BROOKS:** Yeah. OK. So anyway if you look at the fis-- if you look at the fiscal note, it, it says-- Senator Brandt, it says in it that the, the bill requires staff to continuously monitor a juvenile in room confinement. So that was dealt with. And then it said clarification is needed for what is meant by continuous monitoring and based on their-- meaning the Department of Corrections' interpretation, they're saying they need more-- 12 more corporals and others. So that's what happens on that. But thank you for asking that question. Senator Lathrop you asked, does it even matter? I believe it matters. It matters greatly. We have quantifiable statistics that you've heard that we would not have heard without the Legislature's actions last year and the year before. If we don't believe that our actions and our policies and our statements and our laws matter, we might as well go home right now. It's-- we must keep moving the needle. We must keep working and, and I'm grateful for the work of, of Inspector General Julie Rogers and others who continue to bring to us this information and this knowledge that we must act upon. Clearly, we keep asking the Department of Corrections, what do you need? Do you need money? And the only answer is, we're doing fine. We're, we're OK. Don't worry, we'll ask if we need something. Well, that is in my estimation double speak for we will ask if we need something but we really don't want to use any taxpayer dollars on these people. I'm putting these people in quotes and it is quite clear that the staff need training that will help protect the staff, that the kids need programming, and we need to bite the bullet and do something about this. This will help. The data shows that there is improvement at Lancaster County. This matters. Thank you, colleagues.

**LATHROP:** Thank you, Senator Pansing Brooks. We're gonna take a-- oh, I'm sorry. Hold on a second. Senator Wayne.

**WAYNE:** I, I have a question. Last year this body seemed to have an appetite for a bill regarding juveniles and parents and it was my bill so I should know the number and I was-- here it is, LB729 where we allowed certain claims basically waiving immunity when it, when it came to the state particularly HHS lying to parents about their juveniles' placements and their health and adoption proceedings. Would you be amenable to possibly an amendment waiving immunity for the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

states for those who continue to put people in solitary confinement? So what I mean giving parents the right to sue on behalf of their kids' state if they do this.

**PANSING BROOKS:** I, I think that we are really susceptible to that. It, it-- is it because of immunity that, that we cannot be sued?

**WAYNE:** They can't now. But we can change that.

**PANSING BROOKS:** I would be happy to discuss this with you, Senator Wayne.

**WAYNE:** Thank you.

**PANSING BROOKS:** Thank you for thinking of that.

**LATHROP:** OK. I think that's it. We're gonna take a little break before we roll into the next bill.

[BREAK]

**PANSING BROOKS:** [RECORDER MALFUNCTION] And I traveled to schools across the state in 2017 as part of our interim study to examine dyslexia and reading literacy. I used that opportunity to ask school officials if they have SROs. And, if so, how they're being used? I received a variety of answers and I also learned that in some schools, kids were being charged for schoolyard fights. When I-- while I had heard of these practices taking place in other states, I was quite taken aback by the revelation that this was happening in Nebraska. I do not believe that most parents want our juvenile justice system having jurisdictions over things that should be handled through restorative justice and conflict resolution training as well as school disciplinary measures. Research shows that early interactions with the juvenile justice system puts kids into-- puts more kids into the school-to-prison pipeline and thereafter into adult corrections. In the conversations I have had with law enforcement and education officials, I have found that the role of SROs, or school resource officers, isn't very clear. There is often confusion over when a problem should be handled by a school administrator, a teacher, or an SRO. Nebraska statutes offer no guidance and we, we had an interim study last fall and found that there were widespread discrepancies across the state on the use of memorandums of understanding, training requirements, and how SROs are being used. Fortunately, there are a number of best practice models available in the country, some of which

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

are being used by Nebraska communities and school districts. You will hear testimony on a few of these best practices today. I'm also passing out a parent's checklist for SROs in your children's schools that has been put out by Strategies for Youth, a national leader that works to improve police and youth interactions. First, let me be clear, no part of LB390 requires the hiring of an SRO. It just ensures that if a district-- if a school district decides to hire an SRO certain best practices shall occur. LB390 will help ensure that we aren't using law enforcement's time on disciplinary matters but rather to enhance safety, respond to law violations, and serve as a community resource for students, parents, and school staff. LB390 makes clear that school districts do not have to use SROs, but if they choose to they must then have a memorandum of understanding with law enforcement that includes training for law enforcement and school administrators in school law, student rights, understanding special needs, ethics for resource officers, understanding students with disabilities, conflict de-escalation techniques, teenage brain development training, adolescent behavior, diversity and cultural awareness, awareness, implicit bias training, trauma-informed responses, and preventing violence in school settings. School districts may adopt a model MOU or they may adopt their own MOU that meets the minimum standards of this act. In working on LB390, I have consult-- consulted with a number of interested parties including city officials, law enforcement, the Crime Commission, educators, and school officials. As a result of, of these consultations, I am introducing a white copy amendment to this bill that makes quite a few changes. AM291 moves the duties originally assigned to the Crime Commission including developing the model MOU into the Nebraska Department of Education. After visiting with the Crime Commission they felt it would be a better fit with the Nebraska Department of Education because the department already has a school safety security director pursuant to Nebraska revised statute 79-2,143. The duties outlined in statutes show this is a good fit. We visited with Department of Education officials and they indicated they would have no problem fulfilling these functions. Second, AM291 clarifies definitional differences between SROs and security guards and aligns other definitions such as peace officers to exist-- to match existing statutes. Third, those with existing MOUs including Lincoln Public Schools and the city of Lincoln and Omaha want to make sure that their existing MOUs could continue if they were substantially similar to the model policy. So we clarified that language. We also reduced the quire-- the required number of hours for training of law enforcement from 40 to 20. This seems low to me and many are exceeding that total. But law enforcement had some concerns

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

and we agreed to comply with that. We also added the, the phrase "implicit bias training" to the list of training requirements. There was concern, and I think appropriate concern, that, that, quote, diversity and cultural awareness, unquote, wouldn't include the problems with implicit bias against certain communities of youth. So we decided to become more specific and clear. In addition, we made changes to the collection of demographic, demographic requirements to specify that we are referring to already federally identified demograph-- demographics which the schools already collect. We also made a few other semantical changes to add clarity to the bill. I'm pleased we have developed something in collaboration that I believe sets the right balance. The fact is as more and more SROs are being used in schools our state statutes need to speak to this and offer clarity for all stakeholders. And with that, I'm happy to answer any questions or turn them over to the experts behind me.

**MORFELD:** Thank you, Senator Pansing Brooks. Any questions for Senator Pansing Brooks? Senator Chambers.

**CHAMBERS:** Senator Pansing Brooks, I understand what you're trying to do. You're trying to bring a clean thing out of an unclean thing. The police have expanded their jurisdiction without any legal authority. The schools should not be militarized. Conduct that was just considered misbehavior that adolescents engage in is criminalized. I'm gonna hand out a sheet from a study done by ACLU that will show that some of these cops who wrote letters in opposition to my bill, and I'll hand it out at that time, have schools that they participate in and the disparity in terms of how many children of color and children with disabilities out of all proportion to their numbers are the ones referred and placed under arrest. Then they want me to think that these cops who are abusive to us in our communities when our children see them in the schools are gonna feel comfortable with them. There are people who are afraid of the police. They do not protect and serve in our community. They-- and this is not every one of them, but as a whole it can be said because the ones who observe the other ones misbehaving don't do anything about it. And there have been documented cases in other cities, because they had the cameras to show it, where a cop lied about why he killed a black kid. They-- the one where they shot him 16 times and claimed he was coming after them and he was leaving and then the other cops wrote lying statements about it. That happens. The police don't belong in the schools. So I'm gonna ask you this question. Have you had the opportunity to talk to parents to see how they feel about these cops in the schools? Because-- and most of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

the white school districts in Nebraska they don't have them. They're found most prominently where there is what is called diversity. And the teachers want them there to bully black children. It's what the general attitude is. And if there's a dispute or an argument, a teacher can refer a child to the cop and then the cop has total discretion to determine whether to make an arrest or not. And I think it's a very serious problem. It's gonna become increasingly serious because there are some parents who are not gonna let these cops do to their children what's happening now. There are some men who feel that whoever this person is who does these things to my child, he can be armed but he's not gonna do it to my child and get away with it. And when you let these guys come into the schools and they've got guns and they're doing things that parents feel are abusive to their children then the parents are gonna feel that there's only one way I can deal with this situation. There have not been any shootings like in other areas. So for them to use that as an excuse to put these cops in the schools is B.S. They don't need to be there. You cannot make feces-- less feces by sprinkling perfume on it. You cannot make a pig beautiful by putting lipstick on her. So I'm gonna listen to what is said. And this is not really a question, but it's to prepare the way. And I got letters from some of these police chiefs and they've got schools that their cops are in with some of the worst racial disparities. So those are the things that will come out during the hearing and I think is completely wrong. I think it is stepping beyond what they ought to do when the police want to expand their jurisdiction into the schools. These are not yet reformatories. They are not prison barracks. You should not have armed police in these schools especially when there is such a bad reputation that they have. And when you look at the number of black children in the Omaha Public School system because the white people have fled. That's why they want these cops there. And when you find teachers justifying police in these schools and some schools don't have counselors or nurses but they got armed cops. Here's the question I will ask you. If you had it your way, would you want these cops in the schools and try to make it better or would you rather they not be there?

**PANSING BROOKS:** Thank you for asking that, Senator Chambers. I, I think that-- you know what, the first time I became aware of, of the school resource officers was actually when I was a little girl at Irving Middle School here in Lincoln. And that's-- I think when the program first occurred and they came to show that the police are our friends and that we can have a good relationship and get along. Under that auspices, I think that, that there is some value to that. If you

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

look at the numbers of what has happened under youth strategies, there is good that has happened in Omaha in that the felonies and the misdemeanor arrests are down and I hope that comes out. I can see your point, but I think people are so fearful now that I, I just don't know how we stop what is what is happening with the SROs. I-- maybe you can do this, Senator Chambers.

**CHAMBERS:** Doesn't this play to the fear? And they, they speculate and conjure up things that have not happened that people haven't even thought about and said, this is what we're here to stop. If they can put fear there this becomes a plush, slush job for a lazy cop. He doesn't have to do anything. He's the lord of the roost. He runs the school and he determines whether a kid is to be placed under arrest.

**PANSING BROOKS:** I cannot speak to the kids of color because I know that their experiences are, are different than what my kids' experienced.

**CHAMBERS:** Well, then I'll let you go as far as the questioning because we'll have Exec Sessions.

**MORFELD:** Thank you, Senator Chambers.

**CHAMBERS:** Are there-- no, no.

**MORFELD:** Oh--

**CHAMBERS:** You-- you're way over there. [LAUGHTER] Have you become aware of the racial disparity in the children referred for arrest in Lincoln where black people don't predominate? Have you seen that? And the school officials in Lincoln think that's OK.

**PANSING BROOKS:** I have seen some of those statistics. I do not know that, that the school officials believe that's OK. But I have seen some of those very concerning statistics, which is why I brought this bill.

**CHAMBERS:** OK, that's all I'll ask you.

**PANSING BROOKS:** Thank you.

**MORFELD:** Thank you, Senator Chambers. First proponent testifier.

**JENNI BENSON:** Thank you, Senator Morfeld and committee. My name is Jenni Benson, J-e-n-n-i B-e-n-s-o-n. I am the president of the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

Nebraska State Education Association. I represent 2,800 educators across Nebraska. As a special education teacher for 32 years, I can attest to the fact that safety is essential to student well-being and learning. Students who don't feel supported and safe at school both physically and psychologically simply do not learn to their fullest potential. Creating safe and supportive schools is central to the purpose and must be a state priority. Effective school safety starts with prevention. It starts with engaging families and communities as partners. Schools need resources to implement and sustain the practices that truly make our children and schools safe. We need to be willing to take a hard look at where we are and how we got there. Our schools are a microcosm of our society. The problems we see with safety, discipline, and violence in our schools reflect the breakdowns occurring within communities. Our schools and learning are built on relationships. Students don't care how much we know until they know how much we care. We have yet-- not yet struck the proper balance between caring for our students as young developing people and providing a safe environment. Let me be more specific. My concern is that the pendulum has swung too far towards a stage of punitive measures. Students-- studies show that behavior that once led to a trip to the principal's office and detention such as a lack of homework, profanity, talking back, now leads to suspension, expulsion, or even arrest. Once our students have been arrested, they are often set on a path of the school-to-prison pipeline. This is an all too real pipeline that is disproportionate tendencies of minors and young adults from disadvantaged backgrounds to become incarcerated because of the increasingly harsh school and municipal policies. The Council for a Strong America, a national bipartisan nonprofit that unites over 8,000 members across five organizations composed-- comprised of law enforcement leaders, retired, retired admirals-- excuse me, and generals, business executives, pastors, and prominent coaches and athletes. They have stated overly harsh and punitive measures such as zero tolerance led to reduced safety connectedness and feelings of belonging and have historically been unsuccessful at improving student behavior or overall school climate. Additionally, use-- utilizing SROs or other security personnel primarily as a substitute for effective discipline policies is inappropriate, does not contribute to the school safety of students or students' perceptions of being safe, and can perpetuate the school-to-prison pipeline. The primary responsibility of a school resource officer should be to protect schools from outside threats and serious criminal violations that may occur. Teachers and administrators must maintain their role as classroom and building managers only calling SROs for extreme

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

infractions. To ensure that there is a clear and explicit delineation of these duties of an SRO, LB390 requires a memorandum of understanding between school districts and law enforcement that should include certain basic requirements. I've heard a lot of talk with the testifying before. I'm going off script here a little bit because I'm a teacher, and I've heard about the things that we need to be doing. We need to be having more trauma-informed. We need to have better relationships. We need to look at law enforcement as a partner. When Patty was talking-- Senator Pansing Brooks was talking about when she was a child. When my children were, were little as well we had a school resource officer, Officer Stanley, at Lefler Middle School and he wasn't there to arrest people. He was there as a resource. It says school resource officer. He was there to build relationships. My kids still have relationships with Officer Stanley. I understand what Senator Chambers is talking about. I have biracial children. I have seven multiracial grandchildren. My son is a major in the Army. I could tell you stories as a black man. So--

**MORFELD:** Let me see if there's any questions. You've gone three minutes, over the light and I have to be,--

**JENNI BENSON:** Oh, sorry.

**MORFELD:** I have to be fair with everybody. And I know people have plenty to say.

**JENNI BENSON:** Yeah, sorry.

**MORFELD:** No worries.

**JENNI BENSON:** Teacher in me.

**MORFELD:** No, no worries, Miss Benson. Are there any questions for Miss Benson? Senator Chambers.

**CHAMBERS:** Just one comment. A negative letter was written with reference to my bill but they kind of spill over from the police chief in Kearney. And this chart that was put out in a report from the ACLU list Kearney students of color within the school district, 19 percent; students of color referred to law enforcement 100 percent. Now there were six referrals, but all of them were black. And it's a white school. That's what the cop is there for. They're not going to do things to white children who are doing what children do. But if a black child does it, it signifies hostility, disobedience, possible

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

violence, and they are self-fulfilling prophecies because if this cop sees the black child in an argument that confirms his racist predisposition and he arrests the child. And it is something that needs to be dealt with. And just one other item that I'm going to mention. In Lincoln, the disabled students within the district, 15 percent; disabled students referred to law enforcement, 50.5 percent. Now these are disabled students, and in Lincoln they want the cops there. The cops love what Senator Pansing Brooks is doing and I'm not blaming her. Forget the black children because that's what white people are gonna do anyway. Fifteen percent of the children comprise 50 percent of the referrals. And how many referrals altogether? Ninety-seven. So more than 50 percent of those were disabled children. What are they doing that is so threatening and endangering that a cop has to step in. Now let's say you've got a child because I-- there were disabled children in my neighborhood and some of them might have a stiff leg. They were called crippled in those days. And in addition to walking, what some people call funny, they would twitch and make moves as though they're spastic. Well, maybe these white kids and white teachers in Lincoln had never seen that. So they think the child is on the verge of having a fit and hurting these other white children. So they refer them to the cops. You don't have to respond to that. But I want some things in this record and to know that with all the good that Senator Pansing Brooks thinks that she's doing, and I know she's trying to do, I think is putting perfume on feces and something has to be done about the incompetency of these teachers and these administrators when they feel they've got to have armed cops in the schools. I think some of the things you said indicated a level of understanding that kind of softened my overall attitude toward all people connected with the education system. And I see it now, Isaac Eisenhower-- and I'm talking to you because I'm not gonna question any of the other people or even make comments on this bill, he said, and he was a military man, beware of the military industrial complex. You have a cop school complex and the schools are becoming more police oriented than education oriented. And if a teacher is out of sorts and lazy, and the kids detect it, all he or she has to do is call the cop and say, that, that kid right there is creating all this disorder and that kid goes to jail and he is arrested and he happens to be black. And I don't care what these cops who come here say because cops will lie and they've shown that they will lie and I have documentation that they lie. And so it won't seem like I'm just saying it, there was an incident in one of the shelters in Lincoln and this cop used violence against one of the residents and the people who worked in the shelter were so concerned and alarmed and they had a video of it that they

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

turned it over to the Lincoln Police. And the chief at that time did an Internal Affairs investigation. And it was likely that some action was gonna be taken and he quit. But the statement that he wrote was an out and out lie because the video contradicted it. And when he wrote his affidavit, that's a sworn statement, and that is an act of official misconduct. Not only was nothing done to that cop but he got a job with the sheriff of Lancaster County and the sheriff knew it. Another one who had committed excessive violence and was being investigated by the Internal Affairs of the Lincoln Police Department they had a better chief than. He quit because he didn't want it on his record that he was fired and he was hired by the State Patrol. And I had objected and said these other troopers are going to see that there is violence that is allowed by the State Patrol and it's going to infect them. Well, there was a car with people in it and they thought somebody was drunk or something. But they pursued the car. The officer did what he shouldn't do. He bumped the back of the car. It flipped. The person was killed. And then they lied about what had happened. And the video showed it. Radio communication showed it. And in the process of investigating that they came across other actions that troopers had done that had not been public. And one of them was where they had this man to get out of his car. I guess they were checking him to see if he had been drinking. And this trooper came up and with the butt of his rifle, and it was on the film, hit him in the head and knocked him flat. And then the cops lied about it. The cameras show that he lied. So if these cops come here and spread their B.S., I'm going to address it. Most people are afraid of them. I'm not and I don't carry a gun. And I'm not a coward and I don't have to lie and I don't throw a rock and hide my hand. And I wouldn't go around a school room-- a school full of kids whom I could bully and exercise my racist proclivities and have teachers and administrators approving and praising it. And the reason I let you be my sounding board, it didn't seem like you're, you're fragile and I'm not asking you questions. And because you were willing to, to be my sounding board, nobody else who testifies on the bill in favor of it will get any comments from me. But when the cops come, I'm gonna ask them some questions.

**MORFELD:** Thank you, Senator Chambers. And thank you, Miss Benson.

**JENNI BENSON:** Thank you.

**MORFELD:** Next testifier in support. Welcome.

**ELIZABETH EYNON-KOKRDA:** Thank you, members of the committee. My name is Elizabeth Eynon-Kokrda, spelled E-l-i-z-a-b-e-t-h E-y-n-o-n hyphen

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

K-o-k-r-d-a, and I'm here on behalf of Education Rights Counsel which is a nonprofit organization in Omaha that seeks to close the access to justice gap and close the school-to-prison pipeline for public PK12 schoolchildren. The thing I wanted to say that is very critical is a lot of what Senator Chambers has talked about is absolutely here. It's in the fore. We think it's critical to have a really balanced discussion about all the challenges that school resource officers may bring to a school district. School resource officers talk about building relationships. But kids say that it teaches them not to trust the police. Advocates talk about SROs as being best at handling threats at school. But often schools end up relying on SROs to address student discipline which is not the purpose of student discipline. Its purpose is to teach not criminalize. We know that studies show that schools with SROs often have a very high rate of arrests for disorderly conduct, much more than those without SROs. And we also know that SROs can engage in appropriate-- inappropriate behavior when with regard to students. The challenge that Senator Chambers has addressed to Senator Pansing Brooks is, is it appropriate therefore to regulate this in some way. And while Senator Pansing Brooks's bill may not solve all the problems in the world, the reason I, and Education Rights Counsel support it, is because it's a step in the right direction. It's a step in assuring that at least we have public what is the purpose of the school resource officer. It's a step in the right direction because it does require some sort of training. I participated in the interim study where we found that we had no training and we had school resource officers that didn't have any background on the children that they were dealing with. Children that had disabilities. Children that could suffer harm if they were inappropriately approached and addressed. What Senator Pansing Brooks's bill does is take a good step in the right direction to: (a) make it public. What is the relationship? What are the officers there for? (b) the entire list of training that Senator Pansing Brooks went through, that I don't need to repeat, will bring much more knowledge we hope and understanding to school resource officers. And three, it brings the spotlight that if you're going to have a school resource officer in school it should be for safety. It should never be about discipline. Could, could the bill go further? Yes, perhaps, but it's a compromise. It's a compromise to try and bring some sort of regulation so that children are better treated so that they cannot be disciplined by police and making the school district more of a criminal environment. It helps alleviate that. For those reasons, Education

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

Rights Counsel supports LB390 and would urge you to advance it out of committee.

**MORFELD:** Thank you. Any questions? Seeing none, thank you for testifying. Next proponent testimony.

**RITA BENNETT:** Thank you, Senator Morfeld and members of the committee for this opportunity to speak with you today. My name is Rita Bennett, R-i-t-a- B-e-n-n-e-t-t. I'm a proud Nebraska public school teacher with a 28-year long career at teaching at the high school level. I have taught in school with-- that head school resource officers as well. I'm also a member of the Nebraska State Education Association and I'm currently serving as president of the Lincoln Education Association. I am here to encourage you to advance LB390 to General File. I want to begin my remarks by acknowledging that we're here discussing a topic that does have a connection to nationwide discussions on issues related to school safety and we're doing it on the anniversary of the loss of lives at Marjorie Stoneman Douglas High School in Parkland, Florida. Since that day in large part due to the activism, activism of students the national conversation about school safety has taken on even more prominence. Of course that conversation has also sparked discussion about what it takes to keep kids safe at school. One part of that decision-- or excuse me, discussion surrounds the issue and the role of security guards and resource officers. As an educator, as a parent, and as a citizen who cares about the well-being of our community, I think we can all agree that safe schools are a critical part of an environment that contributes to student success. Students who feel safe and supported in school are far more likely to thrive and succeed. I support LB390, but I acknowledge that having security guards and resource officers in our schools is not without controversy and I too have had mixed feelings about their presence in our schools. I recently ran across a podcast of an All Things Considered program that aired in March of 2018, and I think the quote sums it up fairly well. Advocates believe that school resource officers can best handle any threats at schools. Critics on the other hand say their presence creates unintended consequences like suspensions, expulsions, and arrests especially for students of color as Senator Chambers pointed out. Another person, person mentioned that school resource officers can be helpful or hurtful but it largely depends on the model. Whether we have school resource officers or not, the bottom line is as long as we do have them present in many of our schools, I believe LB390 contains important provisions to ensure that the model we use in Nebraska respects the concerns about the impact

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

that a law enforcement presence in schools can have on the school-to-prison pipeline. But it balances it with appropriate measures that make clear the difference between law enforcement and school disciplinary issues. And implementing it will help us to reduce the impact on students of disadvantaged backgrounds and those who have been victimized in the past. A December 13, 2018 article in the Lincoln Journal Star described new training for middle school resource officers in Lincoln described as a first ever training program to help them distinguish dangerous behavior from signs of mental illness in children. The director of security for LPS was quoted as saying, what we don't want to do is criminalize behavior that is out of context. We don't want to criminalize kids because they have an issue of some other sort or need support rather than punishment. So tailoring the training to the needs of those children is critical. So rather than debate about whether we have them I think what LB390 does is to put into place some restrictions and some requirements that will enable us not only to add essential training to reduce those issues but also to enable us to really take a critical look going forward. Thank you.

**MORFELD:** Thank you, Miss Bennett. Any questions for Miss Bennett? Seeing none, next proponent testimony.

**TRACI LENIGAN:** Thank you very much. My name is Traci Lenigan, T-r-a-c-i L-e-n-i-g-a-n. Thank you for the work that you guys do here today. I'm not an expert and don't have statistics. I'm just gonna share my story. About 2003, a beautiful little baby boy was born. I served as a foster parent and had the opportunity to adopt this child. Fast forward 14 years later, I drop him off at middle school and 45 minutes later I get a call from the assistant principal saying my son was in a fight. I need to come pick him up, get him to the hospital. He has a cut on his lip, his eye, and a tooth is chipped. And the assistant principal said he did not start the fight he was simply trying to protect a young lady's honor and her reputation. So he spoke up in behalf of this young lady. I and his father met with the principal a couple of days later because the principal wasn't on property during this fight. I knew that according to my son there were two people that had attacked him and this was in the hallway going to their first period classes. And we discussed concerns about-- you know, safety issues and things like that. Basically things-- he did receive a three-day out-of-school suspension because he was involved in a fight. I accepted that because I knew that was the school policy. In June, I received a letter from Department of Diversion saying that my son was going to be referred to Diversion. And I'm going-- I was

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

totally dumbfounded because I had never received any notification that there was an arrest, any notification that he was ticketed. So I called the district attorney's office and they basically explained that, after my third attempt, somebody said this goes back to an incident on May 4. They-- so I'm putting pieces together. I then go to a local precinct and try to get a police report. The police report was not accurate because the police report did not refer to two assailants against my son. So I thought maybe they just had names mixed up and that they were naming my son as one of the assailants not the recipient or the victim. But I spoke with a diversion person, there's nothing that she could do. But another mother who was informed as to the, the industry, I guess, it was-- she said this is double victimization and so she basically made a couple calls. Because I had access to the videos-- and now these are those little YouTube or not YouTube but Snapchat videos that everybody had of this fight. I was able to forward a copy of that and the charges against my son were dismissed. I would not have had the opportunity or the knowledge on how to-- you know, go about doing this without some sort of-- you know, outside intervention. My son would, would have had a record even though it might not have been accurate. He would have had a record and if he had gone through Diversion, they explained that the judge-- if there was ever anything in the future, and God willing there will not be, because he has never been, never been ticketed. He's never been charged with anything. He's never been a problem. He does deal with some anxiety. He does--

**MORFELD:** Ma-am.

**TRACI LENIGAN:** Yes.

**MORFELD:** We may have some questions.

**TRACI LENIGAN:** OK.

**MORFELD:** You're a minute or two past the light.

**TRACI LENIGAN:** I'm sorry. Thank you.

**MORFELD:** Thank you for testifying. Any questions? OK. Thank you, ma'am.

**TRACI LENIGAN:** OK, thank you.

**MORFELD:** Yep. And I'm sorry, we will be strictly observing the light system tonight because we have two more bills after this. So thank

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

you. Please be observant, it's right up there. The yellow light means that you have one minute left.

**ROSE GODINEZ:** Good afternoon, Senators. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I am legal and policy counsel with the ACLU of Nebraska and testifying in favor of LB390. We are circulating our written testimony as well as our report which you may have received from Spike earlier detailing our legal and policy concerns with the school police program in Nebraska. I first want to thank Senator Pansing Brooks for introducing this piece of legislation and cosponsors. We also want to acknowledge that educators and community members have shared both positive and negative experiences with us and we also in particular want to thank the Crete community and the Crete Police Department who have, have shared and expressed positive experiences with their school resource officers. We further acknowledge that there is a very strong concern for school safety across the country due to the many national tragedies. However, we firmly believe that we can strike the right balance between school safety and protecting students' civil rights and civil liberties with this legislation. School police programs directly impact students of color and disabled students who are being funneled into the school-to-prison pipeline because of these school-based law enforcement referrals. You heard the story of Miss Lenigan and her son. Via the many open records requests that we sent this past summer, we read hundreds of stories and one of them that still sticks with me to this day is regarding a Native American elementary school student that was crying and sitting on the floor in the classroom doorway refusing to stand up. The school staff at that point called the school police officer and had them escort-- had the student escorted out. The school police should not be involved in that type of scenario. These are not incident-- and you can see more examples like that on page 10 of our report. Because of the continuous disparate impact of school police programs on our most vulnerable populations the ACLU's position remains the same. We are not in support of school police presence in our schools unless needed to address imminent threats. However, we support LB390 because this bill provides the necessary safeguards to protect our students' rights and parental rights. These safeguards are presented via a required MOU which is important because as we lay out in our report there is-- there are some school districts that have no formal governance documents such as an MOU for these officers at all. And none of the current MOUs have all the minimum provisions that Senator Pansing Brooks introduces in this bill. All in all, this MOU requirement will provide us with the consistency and standards in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

place to properly and responsibly govern the school police program. And for those reasons, we urge you to advance this bill to General File.

**MORFELD:** Thank you very much for your testimony. Are there any questions from the committee? Seeing none, thank you.

**ROSE GODINEZ:** Thank you.

**MORFELD:** Next proponent testifier.

**JAKE KIRKLAND:** Good evening.

**MORFELD:** Good evening.

**JAKE KIRKLAND:** My name is Jake Kirkland Jr., J-a-k-e K-i-r-k-l-a-n-d. I reside at 5541 Limestone Road, Lincoln, Nebraska. I'm a retired educator, over 40 years in this educational system of Nebraska. I'm also an African-American male that is very much aware of what's going on in our school system particularly as it impacts students of color. And I have to agree 100 percent with Senator Chambers' comments this evening because he had me at least examine what I was gonna say and I'm kind of gone off script. I have to thank Senator Pansing Brooks because of what she has given us to work with today. I was involved in several-- I'll call them town hall meetings here, and when this whole idea was presented to us we didn't really have any authority or any real say so about what was coming down the pike. It was coming regardless. And many of us disliked it, especially if you were a person of color and you knew how the relationship, or lack thereof, existed between students of color and our law enforcement system. I'm very much aware of what's going on in our country and we know there's so much going on that is involving law or a lack of law enforcement that somehow Lincoln is wanting to make sure they protect a certain population and not all population. And that concerns me. But we have a bill in front of us that allows for to go forward with some training. I looked at the components of your bill and I, I liked what I saw. But my greatest concern is how we continue to keep people in charge of making sure things get done and whether that be the training for administrators and the resource officers, the data collection, because the data collection will tell us a whole lot about what is really happening. And then if we have the ongoing support of the community, parents, and so on, we will least be able to see somehow within the next-- I'm hoping within the next year or two, some results that we

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

can say we're taking the right steps moving in the right direction given our circumstance. Thank you so much for your time.

**MORFELD:** Thank you very much, sir. Any questions? Seeing none, thank you for your testimony. Next proponent testimony.

**JULIET SUMMERS:** Good afternoon, members of the committee. Good evening, my name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here on behalf of Voices for Children in Nebraska to support LB390. Education is a key indicator of future opportunity for children, and we should take every effort to ensure that our education system is setting students up for success. We support this bill because it will ensure that protecting children and maintaining safety in our school environments does not come with the unintended cost of pushing more students out of school and into the court system. During the 2015-2016 school year, 57 percent of public schools nationally reported having any security staff present at least once a week, and 48 percent reported having any sworn law enforcement officers present. According to the National School Survey on Crime and Safety, officers participated most frequently in coordinating with local police and emergency teams and security enforcement and patrol. However, 43 percent of officers in primary schools and 63 percent of officers in secondary schools also reported participating in maintaining school discipline. In Nebraska, we currently lack annual statewide systemic data on student interactions with law enforcement at school. Senator Wayne has a bill in Education Committee that would address that this year. However, we know that best practices support responding to student misbehavior with disciplinary approaches to keep the student in the educational environment. Students who are pushed out whether by suspensions, expulsions, or arrests experience disruption in their education that can lead to reduced educational attainment and increased likelihood of court involvement. The risk is potentially greater when we involve sworn law enforcement and security guards in the school environment without specific training or clearly delineated boundaries around roles and duties. These policy and practice choices, as we all know, all too often fall disproportionately on students of color who are more likely to be subject to frequent and harsher punishment, placed in alternative disciplinary schools or settings, referred to law enforcement or subject to school-related arrest, and eventually fail to graduate from high school. We believe that this bill strikes a sound balance between acknowledging the potential benefits of interagency agreements between schools and police but requiring best practices be followed to mitigate unintended

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Judiciary Committee February 14, 2019

consequences to our children. Requiring training for officers, administrators, and teachers in teenage brain development, adolescent behavior, trauma-informed responses, and implicit bias among other topics will counter the potential for overpolicing teenage behavior or biases that may contribute to disproportionate rates of arrest for students of color. Requiring clear memoranda of understanding will address issues of student rights, parental notification, recording and reporting referrals, and draw clearer lines between law enforcement and school discipline to ensure our children's rights are protected. For all these reasons, I'd like to thank Senator Pansing Brooks for bringing this bill and this committee for your consideration. I'd be happy to take any questions.

**MORFELD:** Thank you very much. Are there any questions? Seeing none, thank you for testifying today. Next proponent testimony.

**KAREN BELL-DANCY:** Good afternoon committee. My name is Karen Bell-Dancy, K-a-r-e-n B-e-l-l hyphen D-a-n-c-y, and I serve as the executive director of the YWCA Lincoln. I, I-- we are in strong support of LB390 and would like to thank Senator Pansing Brooks for introducing this important legislation. YWCA Lincoln advances our mission at every opportunity to eliminate racism, empower women, and promote peace, justice, freedom, and dignity for all. Approving LB390 is essential to sustaining the rights of children to be in their public school at which they are required by law to be and to be dealt with by the well-trained staff members. L3-- LB390 is very important as it addresses two dichotomous professions: police officers and public school educators. The bill recognizes the fragility of students and protects students in the carefully designed structures of a public school. Police and teachers are trained and educated to deal with extremely difficult groups in our society. Police and school resource officers will be invited into the turf of teachers and students. The SROs must see themselves as guests and not the ultimate authority figure they represent on the streets. Those who are not formally trained and are not experienced educators have not the capability to understand a day in a public school. A normal school day in which one deals with every piece of human uniqueness that exists in the general population. Public school teachers know this, embrace this, have chosen this as their profession and know how to react to this. I have a scenario about a normal day in the school, but I won't take time to go through that. But the scenario that I had briefly summarized what public education-- educators learn in their training and years of experience and anticipate dealing with every single day. The vital

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

piece is that every one of these students must receive the encouragement to cope, to return to a calm state, to stay focused on learning, to cooperate and respect all the hundreds of other students and teachers they will see throughout the rest of their day so each student may confidently move ahead. These students are expected to be dismissed from school feeling good about themselves, knowing more than when they entered that morning, and feeling that they've had a successful day. So this encapsulates what a normal school day ideally would be. Throw this into the mix uniformed police officer and it changes. Each of our students now must take that in and process all that uniform's presence suggests. Good and bad, positive and negative. And believe me, students are totally aware as are we. This bill, LB390 reminds all adults involved, the task of maintaining steadiness and consistency in an already charged school day, it's a huge undertaking, one that must not be taken lightly nor underestimated in its complexity. With that, I want to thank Senator Pansing Brooks, and urge you to advance this bill.

**MORFELD:** Thank you very much, Karen. Always good to see one of my favorite constituents.

**KAREN BELL-DANCY:** You as well.

**MORFELD:** Any questions for Miss Bell-Dancy? Seeing none, thank you for your testimony.

**KAREN BELL-DANCY:** Thank you.

**MORFELD:** Next proponent testifier.

**GREG GONZALEZ:** Good afternoon, members of the Judiciary Committee. My name is Greg Gonzalez, G-r-e-g G-o-n-z-a-l-e-z. I'm the deputy police chief of the Omaha Police Department. I'm here on behalf of LB391 [SIC] in support of that and the AM291. I don't want to get into too many of the points because it sounds like we may have some discussion. But I want to at least address some of the things that were mentioned already, and that is we're contracted out by the four school districts in Douglas County. That'd be Millard, Elkhorn, OPS, and District 66. I have 41 school resource officers in each school. Good relationship with all the superintendents. They embrace us obviously, we're engaged with their student body, and have had nothing but positive results from being in the schools. I will want to touch on a few points. I've been working with Senator Pansing Brooks for a few years to really continue to professionalize the SRO. Because about six years ago when

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Judiciary Committee February 14, 2019

I got promoted, we were, we were under fire not so much for who we arrested but why we arrested them, that being some city ordinances, such as disorderly conduct, marijuana less than an ounce. And the goal was really to keep kids in school. And I think we've, we've kind of had that paradigm shift with our school resource officers and that's exactly what we're doing. We're-- our arrests are down in schools dramatically and we can talk about that and I can send you some documentation on that. But as far as MOUs, we already MOUs with each school district. That's nothing new to us. We're already highly trained. All our SRO's undergo training. All the teen-brain training, all the adolescent issues, all the legal issues that we talk about that's gonna be codified in statute, we already do. We surpassed that training. So this, this bill if it becomes law will not be new to us. And I just want to make sure that everybody's clear on what the Omaha Police Department is doing. Lastly, the only thing that we'd like to work on, Senator, if everything goes well, is probably some of the data collection. One thing that we could all do better and I think Senator Wayne is gonna propose something for school districts which will probably help ensure that we can really kind of draw down those numbers. Because some of those things are exactly what hasn't been looked at throughout the history of schools and SROs. But I'm confident that we're, we're in line with best practices and who we arrest and why we arrest. And as you all know, the laws for juveniles have changed. We don't cite. We don't necessarily arrest for referrals because juvenile courts are really considered rehabilitative and we like to keep it that way. So we support the bill and I'm here for any questions. Thank you for your time.

**MORFELD:** Thank you for your testimony, Chief. Any questions? Seeing none,--

**GREG GONZALEZ:** Thank you.

**MORFELD:** Thank you. Next proponent.

**KIMBERLY GOINS:** Good evening.

**MORFELD:** Good evening.

**KIMBERLY GOINS:** My name is Kimberly Goins. I'm the executive director at the Clyde Malone Community Center. My name is spelled K-i-m-b-e-r-l-y G-o-i-n-s. I'm am here in support to offer very strong support for LB390 presented by Senator Patty, Patty Pansing Brooks. I believe in child safety. Like all-- like every parent in America I

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Judiciary Committee February 14, 2019

want my child safe at school. As a parent of a child attending LPS schools, as the executive director of the Clyde Malone Community Center, the African-American Cultural Center here in Lincoln providing care for over 300 students each day. I-- we support this bill simply because we have great concern about the lack of controls and regulations in place of SROs and school administration. Studies show that our nonwhite and new American [INAUDIBLE] students are disproportionately overpoliced and underprotected. A national study led by the NAACP Legal Defense Fund in 2017, 2017, states that black preschool students-- so again before they enter the school, are 3.69 percent more likely to be punished than their white peers. The Georgetown Law Center on poverty states that black girls are almost four times more likely to be arrested in school than white girls. Black girls are also three times more likely to be referred to law enforcement than white girls. If we don't want to replicate these statistics then let's do this the right way and that's supporting this bill. When I think about our time here in Lincoln-- Lincoln, Nebraska, my family relocated from Texas about three years ago. With my husband's career, we've lived in over 15 cities. And one of the things we oftentimes share is that as a black couple we've had more opportunity in this state than any other state that we've lived in and especially the states that we're from coming from the south. This is our home now, and what I appreciate, appreciate about this state and the leadership here from Senator Patty Pansing Brooks is to put this bill in place. So not only will our kids here in the state-- great state of Nebraska have a positive experience, but also lead the way for these other states who already have SRO-- SROs in place with no controls. It's a real concern for us. Based on the statistics I share, what I know for sure that these are not the outcomes we want for our community. And if you agree, what I ask is for you to support this bill and it's my hope that we can continue to move forward. Thank you, Patty Brooks, for your leadership. Thank you.

**MORFELD:** Thank you for showing up today, Kimberly. And thanks for all the work you do at the Malone Center. It's a [INAUDIBLE]--

**KIMBERLY GOINS:** Absolutely.

**MORFELD:** --resource.

**KIMBERLY GOINS:** Thank you.

**MORFELD:** Any questions for Kimberly? Seeing none, thank you.

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Judiciary Committee February 14, 2019

**KIMBERLY GOINS:** Thank you.

**MORFELD:** Next proponent testifier.

**MELODY VACCARO:** Good afternoon, my name is Melody Vaccaro, M-e-l-o-d-y V-a-c-c-a-r-o, and I'm here representing Nebraskans against gun violence. We do support LB390, although we think there are a couple components that need to be added to make it stronger and there-- we think there is a missing piece to the bill. I want to start my comments by saying why SROs are a big political topic right now. A year ago today, there was a mass shooting in Florida where 14 children were murdered. And since that shooting, the New York Times reported yesterday that 1,200 hundred more students have died by guns since that mass shooting at the school. Since then, there's been a huge political cry for more police officers in schools to keep children safe at schools. There is zero data to back that up. And right here in Lincoln Nebraska, we saw that at the most local level where we had a bunch of angry men who were yelling at the school board. Who were yelling at the public at a town hall at the local high school at Lincoln Hall-- High when one man was-- I thought was going to leap over the table at one point he was so angry that the community was asking tough questions about why we should expand police into the schools. And we were-- you know, eventually told that if you want to increase public funding for after- school programs then you will accept SROs with a memo of understanding. So, so there we are. When it comes to the bill we really love that the data breaks out in a standardized way. I do want to just be sure that that data is gonna be available to state agencies that report out and researchers. We love the component of education for the officers, administrators, teachers. We would like to see a continuing education component. And ideally the continuing education would incorporate the learned data since the last time there was education issued. And we are-- the component that is missing is when we bring police into schools we're bringing guns into schools. That is really important to recognize. And we'd like to know what will happen when guns discharge or guns are left in the bathroom. When we get to Senator Chambers bill here in a little bit, I'll issue-- I have a hand out of many incidents where guns were misused by police officers in schools. Children are sometimes shot, property is sometimes ruined, and certainly in every incident the children were all in danger. And we'd like to see that addressed and have some oversight there.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**MORFELD:** OK. Thank you for your testimony. Any questions? Seeing none, thank you. Next proponent testifier. Any other proponents? We also have letters for the record. We have nine letters in support of LB390, and we'll move on to opponent testimony. Any opponents?

**KELLEE KUCERA-MORENO:** Kellee Kucera-Moreno, K-e-l-l-e-e K-u-c-e-r-a hyphen M-o-r-e-n-o. Thank you again, Judiciary Committee. You've done a great job. What I see happening though is there's too many yes people still. And if I make-- might make an assumption, it seems like a lot of the proponents would be opponents if they thought they could stand up to the Governor and Scott Frakes and the people that, that need to make the changes. The problem isn't we need more-- we don't need more police. If they're gonna be involved, they should be an after, after-school program. I, I read somewhere where there was a police officer that was playing chess with a kid after school every day. I think they call it a pilot program. How can one police officer have a one-on-one with a guy and call it a pilot program. There should be a lot more than one police officer interacting with a student in a positive way. I don't know-- I think it's a cop out. And I think that this bill is just because we don't want to stand up to the Governor and to Scott Frakes and that's probably the first-- one of the first steps. I do appreciate the bill because if we're gonna have to address this issue by having a police officer in the schools that there are at least boundaries. But I would like to see more healthcare workers, mentors. Kids are gonna change if they want to change. You can't make them change. And the next step is if you do catch them acting out, then what happens? I think the only times that a police officer needs to arrest a child-- a person is if there's a felony charge. If, if there's a felony being done at school, somebody's gonna call the police and they can come then. We don't have enough money already. Plus, I'd like to see the police on the street. We've got some problems out there. Thank you.

**MORFELD:** Thank you very much for your testimony. Any questions? Seeing none, thank you. Next opponent testimony. Welcome.

**LARRY STORER:** Larry Storer, 5015 Lafayette Avenue, Omaha, Nebraska. I want to stand up for police. I'm against this bill. I don't think this is all the fault of a school resource officer. Number one, he works for somebody. But who tells him what his job is, is what we ought to be talking about. Is he directed by the school administration or by the police chief or by state law? Which isn't necessarily always clear. He has a hell of a job. But to bring somebody else in off the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

street and give them all these hours of training you talk about. Does that make them any better judge of what may or may not be a legal situation or a safety situation than healthcare workers, mental care specialists who by themselves don't know the children either and maybe don't understand the brain. There's a lot of people don't understand the brain. But do you understand what goes through a kid's head when he's detained or cornered or charged and all of a sudden-- or maybe all of a sudden asked to defend himself and read if he understands his own rights. His parents are not present. Do you understand what goes through a kid's mind? What goes through a parent's mind when your rights are violated? But I'd rather have a police officer in that school who has some knowledge of the law. Practicing the law at the local level not from here. Memorandums of understanding aren't necessarily worth of a quart of beer. What we're into nowadays is racial disparity and we don't want the kids in shackles. We don't want them to feel bad because they've been detained. But isn't there some reason you detain them? How can you detain somebody if they haven't broke a law? Use some common sense. By the way, where are the parents tonight? Where are all the children tonight? I'd like them all to stand up. Where are all the victims tonight? I don't see any in the gallery either.

**MORFELD:** Probably on a valentine's date.

**LARRY STORER:** You wonder why? Aren't school people and police officers' hands tied enough already. Somebody commented people are also fearful now. Well, and the statistics say this and say that. But you know, I took a statistics course at UNO and one of the first things they taught us is you can skew the statistics anyway you want.

**MORFELD:** Thank you, Mr. Storer. Let's see if we have any questions from the committee.

**LARRY STORER:** All right. I'm sorry.

**MORFELD:** Yep.

**LARRY STORER:** Let's stop. I, I can't stay any longer. I can't wait for all the proponents to go through a couple more so I want to say one thing.

**MORFELD:** We have the red light. We're, we're sticking to this red light.

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Judiciary Committee February 14, 2019

**LARRY STORER:** Yeah, everybody else gets to go over don't they?

**MORFELD:** OK. Thank you. Have a good day, sir. Any other opponent testimony? OK. Seeing none, any neutral testimony?

**BRENDA URBANEK:** Thank you, Senator Morfeld and members of the committee. My name is Brenda Urbanek, B-r-e-n-d-a U-r-b-a-n-e-k, and currently I'm the interim executive director of the Crime Commission. I'm also the director of the Nebraska Law Enforcement Training Center. I'm here today in a neutral capacity because I wanted to highlight the current training that is being provided to law enforcement officers of the state which is complementary to the training that would be necessary for a school-- successful school resource officer. Our current basic law enforcement certification includes training in the area of implicit bias as well as procedural justice. Presently, this training is provided and it is required for new officers. Although, many agencies have offered this type of training for their incumbent officers even though it is not currently mandated by the state. Additionally, the Training Center is reviewing the program offered in Omaha for officers of OPD which includes a class in policing the teen brain. Presently, we have no statutory requirements in Nebraska for standards for an officer to be a school resource officer. This is currently left to individual law enforcement agencies and school districts. This practice is consistent with other specialized areas and assignments in a law enforcement agency. Thank you and I'd be happy to answer any questions that you may have.

**MORFELD:** Thank you very much for coming today. Any questions? Seeing none, have a good evening. OK. Any other neutral testimony? Seeing none, Senator Pansing Brooks to close.

**PANSING BROOKS:** Holy moly you guys, thank you for all being here and here for it. So just-- you know, I have, I have some mixed feelings of course. We have to balance school safety versus civil rights. Again, as some of the testifiers said, if we do nothing then it, it just goes forward. But, of course, there's Senator Chambers' bill to get rid of them altogether. I don't know if that train has left the station or not, but I, I think that clearly to address the concerns we've attempted in this bill to provide oversight training we, we do not want to criminalize kids for their special needs or for being a teenager or for experiencing trauma the morning that they came to school. We have to delineate boundaries. We have to require training. And it's just important that we, we work to see what we can do to put

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

some parameters on this world of merging, merging SROs into the schools. So with that, I'll answer any questions. But--

**MORFELD:** Any questions for Senator Pansing Brooks? Senator DeBoer.

**DeBOER:** Thank you, Senator Pansing Brooks. I was wondering if you could address for just a second what the enforcement mechanism of this bill will be?

**PANSING BROOKS:** That's a, that's a good question. There's really not an enforcement mechanism. We hope that the schools would go forward and do what they're supposed to do. And if not then-- you know, we're, we're gonna have to, to figure out a way to strengthen it. I'm happy to work with you on ways to strengthen this to force compliance. But you know by having the, the memorandums of understanding, having those filed with the public and-- you know, having watchdogs in the community watching to make sure that they are either filed at the-- on, on the school's Web site which is a requirement or at the Department of Education. Those are ways for people to say, what the heck is going on? The law states you shall do this. And where is that? And how are you handling that? So training needs to be there. That's why it isn't just saying use best practices, we are trying to delineate some of the training and best practices that are going around without being too specific so that it'll change again in a year and a half. So thank you for asking that.

**DeBOER:** Thank you.

**MORFELD:** Any other questions for Senator Pansing Brooks? OK. Seeing none, that closes the hearing on LB390. I'll hand the chair back over to Senator Pansing Brooks for the next bill which is LB589 by Senator Chambers. Senator Chambers, welcome.

**CHAMBERS:** Thank you. And although Vice Chair hasn't arrived at her seat yet-- now she's there. Madam Chair, I'm Ernie Chambers. I represent the 11th Legislative District in Omaha. And not being one to beat about, about the bush, the first thing I'm gonna do is let somebody know I'd like these to be handed out. I want to get rid of these police in the schools. The schools are there to educate. When you put a noneducational factor into the school you upset the universe of that system. I have a brief statement of intent, and I want it into the record. "LB589 prohibits police officers are authorized to make arrests, from serving or working as resource officers in schools. It does not apply to police officers responding to a specific request for

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

assistance or providing security for an extracurricular activity or event. It is counterproductive to the purpose and goals of education and its processes, to convert conduct which in the past was handled within the school context, into a basis for arrest and entanglement in the court system with the possibility of being locked up. Due to the manner in which the program actually operates, it has been characterized as 'the pathway from the classroom to the courtroom; from the school house to the jail house.' It operates disproportionately on students of color and those with disabilities, thereby manifesting the same toxic, discriminatory impact found in the society at large. The presence in schools of persons with arrest powers, rather than contributing to a 'learning environment,' and the advancement of educational goals, it has precisely the opposite, negative effect. The practice warrants termination." The school systems-- I'm through reading that for the sake of the transcribers. The school systems copped out, and brought these cops into the schools because they were not going to do the job that they should. I went to school in the black community. But ironically there were only about a dozen of us in that school at that time because the white community had not fled completely yet. By the time I'd finish school, most of them had taken off running. And in a house-- you all, the streets won't mean anything to you, but for those in Omaha would know it's Spencer Street which is now right across the street from where I barbered for many years. A Ku Klux Klan group burned a cross on the lawn of a black man who bought that house. His name was Virgil Williams. He was an outstanding athlete and he played several sports as his son did. So I'm very familiar with racism and I'm also familiar with what happens in schools. When I was in grade school many years ago we had fights-- fist fights with each other. That's the way we settled disputes if we had them. And sometimes we fought just to see who could win the fight. And to show you how young men did-- boys we were then, but we don't want to be called boys even when we are that size and age. Our parents didn't want us fighting. So what we would agree to do is not hit each other in the face, then there'd be no bruises. Now here we are fighting to see who's gonna win, but there was a code that we never violated. If it was a real fight, then somebody might get a bloody nose or a tooth loosened but nothing like very serious hospitalization requiring injuries. Black kids fought white kids and the white kids by and large were afraid of black kids because they thought all of us could fight. And we could fight better than they I imagine, but nobody went to jail. The police were never called ever. There were arguments sometimes that took place in the halls of the schools. But if the principal were around or a teacher

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

then it didn't continue. When white people began to take over the black schools as teachers and administrators they had contempt for our children. They were authorized to do what is called barring and banning. If a parent were concerned about his or her or their children at a school and made their presence felt, the principal would ban and bar that parent. And if the parent returned to the school to see after his or her child that was when the police called-- the schools called the police and it was to remove that parent and threaten them with arrest if they return to see about their own child. There were obvious discriminatory things in the classroom. When I went to grade school, people used to buy milk and they had these little half pint cartons, and around the middle of the morning the kids who had the money to afford milk would have the milk brought in. And they should not have done this because there were poor children, black and white. But those whose families could afford to buy milk would be allowed to drink milk in the class and we suspended everything while they drank their milk. If one of those children happened to be absent, then the teacher would allow one of the poorer children to have the milk of that child and never-- I never had more than two or three black children in the same classroom with me, never was the milk given to a black child. And when the derogatory things were presented, the white teacher presented them, the white children were allowed to laugh and nothing was done to rectify that. And sometimes there would be little skirmishes and scuffles after class between a black child who was upset and a white, a white child who had laughed. But no police ever were involved. I never saw police on the school grounds where I attended when I was in grade school. I never saw a policeman at Tech High where I went to high school. All of my brothers and sisters went to Central because that was supposed to be the best school in Omaha. Well, I didn't want to go where my brothers and sisters had gone. I didn't want to go to the school that everybody thought was hoity-toity. Tech was supposed to be a tough, rough school so I went to Tech. And like most things that people talk about who were not there-- I never had a fistfight when I was at Tech ever. I don't know that I ever saw a fistfight while I was at Tech and no police officers ever came to the school while I was there. So I had experiences in grade school and high school that probably most people my age had. And most people my age have been dead for a few years by now and I didn't have anything to do with their untimely termination. I'm a man who loves peace when everybody is peaceful. But while I was in high school, there'd be problems in our community and grown people would call me to try to help resolve problems. Sometimes some cop had harassed an adult or a child. And what could I do? I couldn't go arrest a cop. People just

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

seemed to feel comfortable if I were there. When they would happen to have one of those programs where they were going to have a black person speak for all of the black people in the world the community wanted me to be the one to speak because I was not intimidated. I didn't stammer and stutter and feel or look like I was in awe of all of those grown white people. If there was a problem with the Housing Authority, which was segregated at that time-- again the streets won't mean anything to you all, but on one side of 22nd Street was where the black people lived. On the other side of 22nd Street was where the white people lived. Segregated housing, all of that. There were white men who would come into our community at night looking for what they call a clean colored gal. And some people-- I won't say that I did this, some of the guys would say, well, yeah, I know where you can get one. And he'd say, where? And he'd say, you got to roll down your window so we can talk and nobody will hear us. And when the window came down a fist went against his jaw. That's what these white men did coming into our community. There was a black woman, she was stopped by the police, and these two cops bent her over the car and sexually assaulted her. And I contacted the then chief, and he said he'd look into it but nothing ever resulted from it. That's what cops did. On a Mother's Day near a supermarket on Ames-- again, the streets mean nothing to you all. But to give context-- and if there are any cops here they know where these streets are. A Mother's Day which had fallen on a Sunday, I was coming out of the store and these two elderly women were in their car and there was a cruiser with two white cops in it. So I went to the women. I said, what happened? Did your car break down? They said, no, those police officers stopped us. So I went back to the car. See today they'd shoot me and say they were in fear for their life. I'm unarmed. They got the gun, they'd shoot me and get away with it. And that has happened in Omaha. And if there are any cops here they know it and it's a joke to them. But at any rate, I intervened and I told these cops suppose that was your mother. Would you want them treated like that? And the black woman was shaken because they thought the cops would do something to me. And I must have embarrassed them but also I would file complaints against the cops at that time. So for whatever reason, they didn't even argue with me. They didn't even tell me why they stopped. They backed up and took off. There are other instances where white men were shot by the police. And I was the one who challenged it. I dealt with a county attorney whose name was Donald Knowles at that time. They called him Pinky. And he would turn the police reports over to me and I would go through them and I would pick out the inconsistencies, the lies, and I'd write a report and give it to the mayor. Was any cop ever punished

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

for that? No, but they knew. And I'd file complaints. And people asked me, why do you do it it's a waste of time? I said, if a day ever comes when anybody looks into how wrongfully these police are treating us they won't be able to say no complaints were ever made. So I filed complaints myself. I filed complaints on behalf of other people. And if there are any cops here they know it. They were brutal. They would pick guys up, take them in an alley and beat the stew out and then kick them out of the police car. They take them down to the police station and they'd beat him up and throw him out on the street. And people began to call me early in the morning. My wife was worried. And she told me about a movie that had the godfather-- about the godfather, and she said there was a guy named Sonny in it. I said, so what are you telling me this for? She said, well, Sonny really cared about his sister and the other mobsters didn't like Sonny. I said, I don't even know what you're getting at. She said, well, a call was made to him about people who were abusing his sister. So he jumped in his car and was headed for where his sister would have been. And he had to go through a toll booth and that's where they blew him away. They set it up. Nobody was bothering his sister. And my wife told me, that's what they're gonna do to you. You can see by the fact that I'm here that they didn't do it to me. But that didn't stop me from going down to the police station all hours of the night, early in the morning. And the chief knew that I would come and that I wasn't afraid to be there. People didn't know why they didn't shoot me and I don't really know either to be completely honest. And I was arrested several times. Never convicted because I didn't violate the law. Why would they arrest me when they knew I wasn't gonna be convicted? All they wanted to do is inconvenience me. I'd ride down to the police station in a cop car. I could always call somebody and they'd come get me. If there was any bond that had to be posted there was a bondsman who would always do it. And that was how they got their jollies. And I guess they thought that if I was seen being arrested that it would put me in bad with my community. But it lionized me and it made me a semi-hero because there I was a youngster and the cops were afraid of me. I never got beaten up by the police. And I would investigate the scenes of shootings-- police shootings. And when I'd go into white neighborhoods, they knew about me because articles were written then. They'd come out and they tell me what happened. They'd invite me into their houses and I took statements from them and they signed them and I turned them over to the county attorney. I've done more things than anybody would imagine had been done by anybody and I still live in my community. I could have moved out of my community and gotten in a neighborhood where my house would have five digits in the address. But

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

my blood is in that community and that community's in my blood and I'll never leave it. And that's why when these cops want to pull this that they're pulling by being a threatening intimidating force in the schools where black children go and they intimidate parents, too, by the way. If you're one of those parents who cares about your children and you visit the school you're a troublemaker not a parent who cares and you want to ask questions. Why at other schools do these children have books to take home for homework and my child doesn't? Well, she or he was a troublemaker and would be banned and barred. That happened. You all don't believe it. And that's why you all can never understand what I'm talking about. It doesn't happen to you and you can't believe it. If you look at this chart I gave you-- just for the record, I put stars on here because four of those police chiefs, one from Hastings, one from Kearney, one from Lincoln, and one from Omaha wrote negative letters toward this bill. So look what the star says about Hastings. Students of color within the school district, 32.2. The N/A means not applicable because they didn't make any referrals. But then, they also tell you how many disabled students were there and they made no referrals. So perhaps the Hastings police chief could say this is a wonderful program. And they probably got him to say it. I've never heard of him commenting on anything before the Legislature before. But this is a chance they think to get a shot at me way out there in Hastings writing a little nonsensical letter. Then Kearney, students of color within the school district, 19.1 percent; students of color referred to law enforcement, 100 percent. And that chief wrote me against my bill and how wonderful these school cops are. One hundred percent of the referrals and the black kids comprise 19 percent of the, of the school population. Imagine you being outnumbered like that, but white people are never outnumbered. White people are afraid. That's why they came after us with mobs. They don't come after us one on one. That's why cops might be the ones to come after me because they got guns and I don't have a gun. But I wouldn't run from them. I'm the man they wish they were. You won't find me ganging up on some guy and beating him bloody then tasing him almost a dozen times. And then wind up killing him. And then they can get a white guy to say, well, he died from some kind of hysteria. Let me tase somebody and they die. And I say, well, he died from the same hysteria that that guy did when a white cop killed the Native American. BearHeels was his last name. They say, oh, no, Chambers that was murder. What about Lincoln? Lincoln's police chief sent a negative letter. What percentage of the student body is nonwhite? We'll say 33 percent. Students of color referred to law enforcement, 70 percent. What about that? You're a parent. How do you feel about your child

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

going to a school like that in Lincoln? And your police chief wrote that letter. What does that tell you about the way their cops deal with us? Those are referrals of our children to these cops. Get them out of the schools. Those children don't need the kind of record that they'll get because they were put into the court system. But do you all care? Heavens, no. I know you're not going to advance this bill, but I wanted the chance to say it here. And I knew they'd send some flunky cops down here and they'd have to hear it. But I'm not gonna hurt them. I'm not gonna take their job. I'm not gonna shoot them. And there are black cops who do the dirty work for the Omaha Police Department. And they'll speak against me. And they know what I've done for our community. And if they don't know their parents know. But that's what they do because that's how they are. We have traitors among our group. But you know a funny thing, none of the famous traitors were black. Quisling-- Vidkun Quisling. You all don't know what country he was from-- he's from a European country. I won't tell you, but he was a traitor to his people with reference to the Nazi's. Judas Iscariot, a great traitor, well-known. He was a Jew. Benedict Arnold, an American white man, a traitor. Show me any black man who betrayed this country which treated us worse than dirt. Fought in every battle that this country ever had from the Revolutionary War on up. The war of 18-- battle of 18-- the War of 1812, the Spanish-American War, First and Second World War, Korean War, Vietnam War. Every so-called police action, and some people were worried about what I would do when those old people came to bring the flag in. Those old union dress soldiers. And I just kind of smiled. I say, what do you think I'll do? Well, they just wanted me to know. I say, well, if I say anything here's what I'll say. I wore the same uniform. It didn't look like that, but I wore the uniform of the same country that they did when I was in the Army. I was in the Army of the United States. Not Russia, not North Korea, not Iran, the United States of America. And do I get treated like a human being? Heavens, no. And black men who came back from those two big wars would have lynched in uniform. And then they've got these-- anyway. Omaha, where Chief Schmaderer, he and I halfway get along. We've been able to work together on some issues. What happens in Omaha? They call it a majority minority school district because a majority of students in OPS are black, but not the majority of teachers, not the majority of administrators. Our children are still under the dominance of white people when it comes to being educated. But even though they're the majority they also make up the majority of, of referrals to law enforcement, 80 percent. But then let's go over here in the same schools and look at the children who are disabled. At Hastings they

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

had disabled schools but there were no referrals at all. At Kearney there were no involvement with disabled children. What about Lincoln? The disabled children make up 15 percent; disabled students referred to law enforcement, 50.5 percent. Omaha, 18 percent of the population disabled; disabled students referred to law enforcement 44 percent. And you'll see that disparity in these other schools. But I just listed those in the cities where the chiefs had written. And it's not gonna hurt you all to listen a little while, and for me to say what I've got to say. Because I'm not gonna question any of these cops when they come up, but I'm gonna listen to them and I'm gonna on-- in my closing deal with whatever it is they say. We don't need these white cops or even black ones in these schools. What can one cop do anyway? What can one cop do? Let's take North High School, something breaks out serious, what he's gonna do? First thing he's gonna do is say, help an officer, help an officer. They haven't had any serious violence at these schools. They want these cops there and some of the teachers want them there because they're not gonna do their job. And at these schools where these teachers are being found having molested children, I'm sure it happened that, that one of these cops would be at one of these schools or maybe some of them. They don't do anything with that. If a teacher manhandles a student, you think the cop's gonna do anything about that. It's always a one-way street. And whatever happens to this bill is of no moment to me because I'll have my time on the floor of the Legislature to talk about it, talk about this situation. Show you another situation where white people are imposing something on the black community. You know what I managed to get done? Divide the Omaha Public School into three districts. And they said, I was segregating the students. I said, no, no. The schools in Omaha are segregated right now and the district boundaries will follow the attendance zones that were drawn by the current white school board. What the white people have done-- well, if they didn't think it was segregated since then with those attendance zones, why would they think it's segregation now when I follow those to make the districts? But here's what they didn't like, each district would be a school district on par with every other school district. They would get their own state aid. They would hire their superintendent, hire their teachers, establish curriculum, and govern the school. White people talk about local control until black people are the ones who are gonna control our locality. They didn't want that. So they filed a lawsuit and I tried to force their hand to make them bring it to trial and they delayed, and they, they delayed because Senator Raikes and I-- and he was instrumental in helping me with that. We're going to be term limited out. And then what they would do is withdraw the lawsuit

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

and repeal the law of the legislation. So what Senator Raikes and I decided to do was to try to leave something when we were gone. So we and former Speaker Kermit Brashear was a part of-- you all don't know the history of anything around here. We created what was called the learning community. It was like a consortium of the public schools in Sarpy County and Douglas County, maybe a little spill over into Washington County. And there was a learning community board that would be elected by district and that board would govern these schools. They could set an assessment for construction, for administration, and other things. And it actually was doing work. When I left here from being term limited out I wanted to do what I could for my community's concern so I went on that board. I could have gotten a job anywhere. There was a law firm that wanted me just to do research. I said, I don't have time for it. They said, well, all we want you to do is read the briefs that we've written and look at the grammar and phrase things the way you think they should be phrased. And why am I taking this time? Because I can. I can inconvenience white people just a little bit. But this is the most I can do. I don't take your homes. I don't mistreat your children. I don't chase your spouse. I don't call the police on you. All you have to do is sit there as I have done for 44 years trying to get this Legislature to do what it ought to do. And that's what I'm doing here once again knowing you're not going to do it. I might have been born at night as they say but I wasn't born last night. So since I've gotten much of what I need into the record, if you have any questions I will answer them. And Madam Chair, I'll sit in my chair but I won't ask any questions. If there are no questions then I will--

**PANSING BROOKS:** Are there any questions for Senator Chambers? I don't see any, thank you, Senator-- OK, Senator Wayne has a question.

**WAYNE:** My question is-- and I don't disagree with all these stats and-- what's the alternative for safety?

**CHAMBERS:** I don't see what you mean by needing an alternative because what they say they're there for, I don't see that as a police problem.

**WAYNE:** The, the-- and I'd be willing to vote this out of committee just so you know that. I think it's an interesting talk our floor should have. But I do want to spur the conversation around the argument is, is safety. The argument is that essentially, not just in Omaha, but particularly in Omaha, we are dealing with small towns at the high school level where there's 2,500 kids and even at the small town level they have a sheriff or somebody, so the argument is around

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

safety. And I just want you to get an opportunity to put on the record why you think that isn't true or why-- or what kind of alternative may be there. So I just wanted to give you the opportunity to put that in the record. So when this does get to the floor, we can, we can have that there.

**CHAMBERS:** I couldn't hear everything you said, but I think you said they say that it has something to do with safety?

**WAYNE:** Yes. So--

**CHAMBERS:** I'm not, I'm not--

**WAYNE:** --the question is, and I'll talk louder, when the argument gets made that these, particularly in Omaha and Lincoln where you have 2,500 students, they're essentially small towns and, and the issue is safety, should we have a police officer there or a peace officer there for safety? I, I just wanted you to get a chance to put in the record pointedly why that does or doesn't matter. And I said I would support this if it went to the floor.

**CHAMBERS:** There was not any showing that there had been any disturbance calls by the students or any outsider that couldn't be handled in the ordinary course of running the schools. They jumped on a bandwagon and maybe the police put some fear in them and instigated it and came there. But let's say there was a shooter, this one cop couldn't do anything. And there were some of those schools where they had-- sometimes they had security guards. One time they had some deputy sheriffs. They stayed outside. They didn't get involved. So one cop is not gonna do anything. It's an easy job. It plays to the fear that people have. And I don't see it. I'll tell you what-- if I thought that those children were in danger, you couldn't stop me from trying to implement any and every program that would protect them. But I'm not going to support things that generate fear in people where there is no basis for it. I don't believe that there has been a credible threat of anybody shooting up any of these schools. If they've caught a child with a weapon, sometimes they will find-- I saw where one kid had brought, and this was in the lower grades, he had brought a plastic knife to school and they-- that was considered a weapon. So they treated it as though it were a weapon that would hurt somebody in that he brought it there for that purpose. So the examples that they give are the kind that in the old days would not have raised a hair on the part of anybody. So maybe when those who are opposed to the bill come here they can show what the danger is that justifies

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

having all these police officers and they're in schools where they don't have nearly as many schools as Lincoln and Omaha. And that's about the best answer I can give. Madam Chair, am I allowed to leave if there are no more questions?

**PANSING BROOKS:** Any more questions? OK, thank you. Please.

**CHAMBERS:** Thank you.

**PANSING BROOKS:** First proponent. Please get up to these seats because people have Valentine's things going on tonight. So I am asking you-- and we are all asking you, we are here please follow the light system. I will be stopping you right when the light goes on. All of us have-- everybody here has events, and I'm sorry, I know that's not--

**DONNA ROLLER:** I forgot my Valentine's.

**PANSING BROOKS:** OK. Well, anyway, thank you for being here. Yes, please start.

**MELODY VACCARO:** Hi, my name is Melody Vaccaro, M-e-l-o-d-y V-a-c-c-a-r-o. I'm here representing Nebraskans Against Gun Violence and we support LB589. We are opposed to the use of school resource officers in our school system. I wanted to-- I have a handout. It's this pink sheet of paper. This was compiled by Mary Beth Baxter from New Yorkers Against Gun Violence and it has all kinds of incidents with firearms in schools. But many of them are police doing things like giving a class on gun safety, unintentionally firing their gun and bullets-- bullet fragments getting into a 17-year-old student. A school resource officer unintentionally discharging a handgun in a middle school. A police officer in an elementary school who is there to build relationships had a little boy reach over and pull the trigger on the officer's holstered gun. A school resource officer unintentionally firing a handgun in the school. Right. And there's just-- it's just a pretty horrible list like a police officer leaving a loaded AR-15 assault rifle strapped to his motorcycle while visiting an elementary school. A little boy did pull the trigger of that gun and three children ended up with shrapnel injuries. You know this-- and so that's a list that you have there. I wanted to talk about with Patty Pansing Brooks's bill I handed out and I didn't get a chance to talk about this, but we've gotten some-- a report that was put together by Dr. Sarah Zuckerman. She put this together when we were working on the expansion of school resource officers in Lincoln Public Schools. There's a couple of things I did want to point out. One thing

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

that, just personally as a woman, I found very horrifying was African-American girls and Latinas are almost three times as likely to be arrested. And the big reason is for ladylike offenses. They're just not ladylike in the way that the officer wants them to be. LGBTQ youth, gender nonconforming youth, students with disabilities face disparities in arrest rates. There is not data that shows school resources increases anyone's safety. There is a lot of data that says they can seriously impact safety and decrease safety for children. Instead of punishing children and criminalizing children with fake gun is real crime, minimum sentences, questions without due processing using police, we advocate requiring adults to lock up guns to keep schools safe, give law enforcement tools to remove guns from dangerous people, like the red flag law coming up, and extend the handgun purchase permit to long gun sales and hold gun sellers accountable when they sell to prohibited people.

**PANSING BROOKS:** Thank you, Ms. Vaccaro. Any questions for Ms. Vaccaro?

**MELODY VACCARO:** Great. Thank you.

**PANSING BROOKS:** Thank you for coming tonight and for being here so long.

**DONNA ROLLER:** It all right if I have a green sheet?

**PANSING BROOKS:** Pardon me?

**DONNA ROLLER:** Instead of a yellow sheet?

**PANSING BROOKS:** That's fine, thank you.

**DONNA ROLLER:** Good af-- good evening, I'm Donna Roller, D-o-n-n-a R-o-l-l-e-r. I'm here to support LB390 [SIC] and I'm also a member of Nebraska Against Gun Violence. And I will tell you a little story about what happened in Lincoln if you are not aware. The SRO thing came up, we were against them. And a overactive thug from the community, Corey Ryman [PHONETIC], proceeded to instill fear in a group of parents afraid of school shootings. And then had a-- town hall sponsored it. I would say a fake town hall that was totally regulated and not a fair representation of-- it wasn't not meant to represent the real issue here at all at Lincoln High. And, and so I will remind you that the same people here are sending their children to Tactical 88 near Omaha, which I would argue is a Nazi symbol on their building, to train children how to defend themselves when they

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

are attacked and so we have this fear around us in our community. And so what, what proceeded to happen was we got involved with LPS. We had a meeting with them. The other side was yelling at school board members at their meeting. They were-- bullied their way into LPS. And what it all boiled down to, LPS made a deal with both sides. You can-- and what LPS really wanted was after-school enrichment programs. So if you can have after-school enrichment programs, but we must have our SROs and so SROs became a part of Lincoln Public School. I will also say that things are overexaggerated. I had a friend whose daughter worked at Hy-Vee. She had a box knife for her work in her car. I don't know how they knew it was in her car, somebody tattled on her, but she got in-school suspension and reprimanded. And she was a very bright girl that could have had multiple scholarships. I told that mother, you have to go in there and fight this. This is unjustifiable. She did not do that. Her scholarship to college was jeopardized because she had a work knife in her car in the parking lot, quite a few-- a distance away from the school. So things were blown out of proportion and, I'm sorry, Chambers-- Senator Chambers thinks this won't pass in the Legislature, but I think it is the right bill to pass. And if we must-- if we can't have this bill then I will support all the other bills. I put my support down for the other bills already listed as well because we do need to regulate these officers in the school. I think it sends a very bad message. And having a grandson that, that is somewhat immature and super bright, anything handled wrong in the classroom will be detrimental and, and escalate this. And I just think it sends the wrong message. And I sure wish--

**PANSING BROOKS:** Thank you. Thank you--

**DONNA ROLLER:** I know. And thank you very much. And--

**PANSING BROOKS:** --very much for staying tonight. We appreciate it. Any questions for Ms. Roller?

**DONNA ROLLER:** We will never be OK as a nation. Will we?

**PANSING BROOKS:** Thank you. Next proponent.

**KELLEE KUCERA-MORENO:** Hi, Kellee Kucera-Moreno, K-e-l-l-e-e K-u-c-e-r-a hyphen M-o-r-e-n-o. I could get really riled up about this stuff and I've got lots of notes. I could match Senator Chambers there with the white side of the same thing that he said. I think that we need to expect change. Right now it just seems like that-- like if we don't just say, no-- we got to say, no, now. At this stage, Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

Chambers, I think what you need or maybe I should talk to a-- the Governor and Scott Frakes. You just need a pointer at this, at this point in the game where you're at. You should just be able to point to somebody and tell them what you're gonna do about it. And Senator Pansing Brooks, you too. I went to Senator Chambers' office. He sat down to talk to me more than once. In my ADHD mind, he tried the best to understand what I was saying. But at this stage where it's at, if he can't talk to me he'll tell me and I respect that. Because what that is, is it's a boundary. And for me to say, what should I do? I'm not a dependent little girl that needs daddy to tell me what to do. We know what to do. We know what's right. This is Black History Month. I don't know if we're not celebrating it in Lincoln or what but I haven't had any food or went anywhere or did anything. I forgot to just acknowledge, thank you for all you've done for the community. At this stage, we need to take action. Everything that everybody said is right. It's time just to have blind faith in what Senator Ernie Chambers says because he knows. And he can't tell you how, because he's black. But the ink is black and the page is white. So that's all I have to say, and Happy Valentine's Day.

**PANSING BROOKS:** Thank you. Any questions for Ms. Moreno? I don't see any. Thanks for staying tonight. Welcome.

**ROSE GODINEZ:** Thank you. Hello, again. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I am here to testify on behalf of the ACLU of Nebraska in favor of LB589. A big thank you to Senator Chambers for introducing this legislation. We are circulating our written testimony and you have our report before you already. We believe at the ACLU that children should be educated not incarcerated. While adding police officers to schools may be well-intentioned, educators and policymakers are overlook-- overlooking the harmful and disparate educational impact that harsh discipline and [INAUDIBLE] can have. Regardless of whether school police officers are called school resource officers or school police, whether they carry the same weapons as a regular officer on the street, are friendly or aggressive, these officers have the same power to arrest, detain, interrogate, and issue criminal citations. School police programs directly impacts students of color and students who are disabled. And Senator Chambers has gone through the statistics with you so I will not rehash that. However, I do want to say that across the state we have 244 school districts and 34 of them have school resource officers. As reflected on page 4 of our report, it is also evident that from our survey that diverse communities tend to have more school

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

police officers. I'm-- right. In fact, the counties that are 94 percent are more white account for only 4 of the 76 school police officers in the state. We support LB589 because it ends the school-- routine policing of school which criminalizes everyday disciplinary matters like two elementary school brothers yelling and cussing at each other, like a middle school student writing on her desk and cited for property damage. When a student's immature or adolescent behavior is addressed by a law enforcement official trained in criminality and arrest not in getting to the root of the behavioral issue, neither the child nor the school is being well-served. Schools seek more-- schools should seek more appropriate child-driven responses to challenging behavior in schools and invest in that-- in them. To answer Senator Wayne's question, what is the alternative? Investing in counselors. In Nebraska, approximately 4,212 students are attending a school with a police officer but no counselor. Let's prioritize counselors over cops. And for these reasons, we urge you to advance this bill to General File. And I'm happy to answer any questions.

**PANSING BROOKS:** Thank you very much. Any questions? I, I really appreciate the, the statement prioritize counselors over police. So--

**ROSE GODINEZ:** Thank you.

**PANSING BROOKS:** Yeah, that's a-- it's a good point because our kids were in school and, and at each of the schools they pretty much kept losing a counselor or anybody that was some sort of social worker. So--

**ROSE GODINEZ:** Right.

**PANSING BROOKS:** Thank you.

**ROSE GODINEZ:** Thank you, Senator Pansing Brooks.

**PANSING BROOKS:** Welcome.

**GREGORY LAUBY:** Thank you, Senator Pansing Brooks, members of the committee. I salute your stamina. My name is Gregory C. Lauby, G-r-e-g-o-r-y, C as is in Christian, L-a-u-b-y. I feel totally unprepared. I had not planned to speak today and I brought no charts, studies, graphs. But I do have a personal story if you'll bear with me that I hope is perhaps illuminating. In about 1973 or '74, I was a law student at the University of Nebraska here in Lincoln and I noticed in the newspaper an article about how the local school board was

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

considering the creation of a new staff position in the school. And they were gonna call it a school resource officer and staff it by a Lincoln police officer, and it was on the agenda for the school board meeting that was upcoming. And so I talked about that with one of the law professors I had and admired and we decided to go down to the meeting and oppose it. We went and we sat through the meeting. It happened to be the last item on the agenda and the item immediately before it was a motion to alter the budget. And when it came out and started to consider that it, it was disclosed that they wanted to eliminate \$20,000 that was budgeted to provide milk to students in the school lunch program and that motion passed. And then they moved into the school resource officer discussion and it turned out that there was no money already in the budget for that position but they were going to allocate \$20,000 to hire and staff that position once it was created. And despite my comments and the comments of my professor, they approved that motion. But I think it, it says something about the priorities that school districts have established and those programs have continued to grow frankly at the expense of other needs of the educational system itself. And so I, I just want to remind you, as, as the previous speaker did, the funding for these programs comes from some place with that-- from the budget that could be spent perhaps more wisely to meet educational needs. And I see I'm just about out of time, but I think I can squeeze in a quotation from P.J. O'Rourke, who said giving power and money to the government is like giving whiskey and the car keys to teenage boys. Thank you very much.

**PANSING BROOKS:** Thank you for being here Mr. Lauby. Any questions. I don't see any. Thank you for staying this long, too.

**GREGORY LAUBY:** Thank you.

**PANSING BROOKS:** Any additional proponents? Proponents? OK, how about opponents? Opponents? Thank you for coming down so that you're ready. Welcome, Mr. Storer.

**LARRY STORER:** Thank you. Larry Storer, 5015 Lafayette Avenue, Omaha, Nebraska 68132. I'm opposed to this bill for many reasons. And Mr. Chambers, I, too, remember high school years. Junior high when we settled our fights in the alleyways and we usually ended up being friends. But anyway this bill-- it's a special law which your state constitution says you will not make. It also violates the rights of police officers, and it's time we get back to constitutional things. I know you guys don't like to hear that but-- fact. So who's gonna be the judges of the behavior? If we don't have a school resource officer

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

that's somewhat trained in the law, who's gonna decide between behavior-- bad behavior, mental health behavior, or breaking the law? How much time do you have to make those judgments? How much training will the people you replaced as a resource officer with get? And will they get the understanding of how to understand the human brain? How to understand how a rat feels when he's cornered? When the squirrels try to get out of the house, you won't pick them up, you got to open a window or something. A bird-- we're, we're a member of the animal kingdom. And when we get accused of something, we tend to want to fight back. That's what I'm doing tonight. An oppressive government. I don't want to pay for somebody else to receive training, experience, and credentials. I trust my police officers. And I think everybody else should. If they're breaking the law, let the law take care of it. If somebody else is breaking the law, let the law take care of it. Isn't that what we're for? Isn't that what all the laws we've had to date are for? Why don't you hold the people responsible that are responsible for that starting at the State Legislature and the Supreme Court? But you know what, a lot of that is about CYA. Let's shift the responsibility. And let's see if we can keep the blame to somebody else. And let's see if we can keep from paying out funds to somebody that's been mistreated whether they're white or black. November or April of 2015, the Supreme Court said it. We know that child suffered under this special education treatment that he got. But you will have to take that to the civil courts. We're not gonna decide that for you. Their responsibility is gone, federal law doesn't count.

**PANSING BROOKS:** Thank you, Mr. Storer.

**LARRY STORER:** So who, what, when, where, why. That's your guy's decision. But this law needs to come out.

**PANSING BROOKS:** Thank you for coming, Mr. Storer.

**LARRY STORER:** Thank you.

**PANSING BROOKS:** Welcome, Chief.

**STEVE HENSEL:** Thank you, Senator. My name is Steve Hensel, S-t-e-v-e H-e-n-s-e-l. I'm the chief of police of Crete. I'm also the president of the Police Chiefs Association of Nebraska or PCAN, as we've identified earlier. Law enforcement, its most fundamental task is to serve. And it should be. Nowhere is this service seen with more variety and positive impact than through an effective school resource officer program. School resource officers enrich the lives of Nebraska

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

children. Our students benefit from the warmth, care, and understanding of a trained, competent SRO who is devoted to their safety, well-being, and success. Like many other Nebraska communities, Crete has such an officer. Crete is a wonderful blend of culture, race, ethnicity, and our school resource officer has been in the schools for five years. And we struggled to determine how many children-- students were taken into custody by the school resource officer in five years. Our school resource officer could remember one. And that was for a warrant issued by a judge. So what does this officer do? She spends her time caring for the children, seeking their best. And like the title implies, bringing resources to bear overcoming government bureaucracy and finding ways to say, yes, to a child's needs. This bill proposes the elimination of school resource officers. Nebraska police chiefs recognize and applaud the value work-- valuable work rather of Nebraska's dedicated school resource officers and ask our lawmakers to support them as well. I'd be glad to answer any questions. Any questions?

**PANSING BROOKS:** Thank you, Chief. Any questions? Yes, Senator DeBoer.

**DeBOER:** Thank you for testifying so late into the evening, Chief. I was wondering if you could tell us if you know what training the resource officer in Crete had?

**STEVE HENSEL:** Sure.

**DeBOER:** Thank you.

**STEVE HENSEL:** Sure. There is a basic course and an advanced course and we sent our SRO to both as fast as we could. As soon as she was assigned to the, the position, we were able to get her into those courses as they were available. We've also assigned another police officer to act as a substitute SRO and we've sent her to training as well. She has not performed in that role. But in case something happens to our primary, we want to be able to support the school so we sent her to training as well.

**DeBOER:** What, what kind of training is it?

**STEVE HENSEL:** Well, the-- there's an association of school resource officers and they provide a focal-- focus training on the very needs that Senator Pansing Brooks's bill describes and vital, vital.

**DeBOER:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**STEVE HENSEL:** Sure.

**PANSING BROOKS:** Senator Chambers.

**CHAMBERS:** The cops are cagey. They know this man is personable. But anyway, Chief, Crete is, is what could be called a practically all white town. Isn't it?

**STEVE HENSEL:** With ethnicity taken into account, 50 percent Latino perhaps; white maybe 40; and a blend of the other of, of Asian. I'm sorry.

**CHAMBERS:** Let me ask it this way. How many black children do you think are in the Crete schools?

**STEVE HENSEL:** Sir, I don't know the answer to that question. It's a small percentage.

**CHAMBERS:** That, that might account for why they only had one referral and that was on a warrant because in the schools where the white children predominate they don't-- there are not those kind of referrals. Where there are black children in the schools, they-- even though they're a small percentage, they make up a very startling to me disproportionate number of those who are referred.

**STEVE HENSEL:** Sir, to answer that point, our backgrounds, yours and mine, very different. I've spent 40 years in law enforcement and I see it as a noble profession. And if it's not it has to be. And when law enforcers step out of line we must police ourselves and not expect everyone else to police us. If we can't do that ourselves, there's a problem with all of us not just a few of us. So I see this position in school resource officer just to help. Just to be there to serve. Just to be involved to, to clear away the problems and make lives better. Now that may sound like a panacea, but it's what I believe.

**CHAMBERS:** If there were only one referral-- if this officer were removed it wouldn't hurt the school and what it's doing at all because apparently you don't have a lot of fights there. There haven't been-- whatever he, he would be there to do law enforcement activity against. So if he were removed, it wouldn't interfere with the education because it's primarily-- well, it's absolutely intended for education not to give a job to a police officer or help police community relations.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**STEVE HENSEL:** I will speak to your point, sir, to say our schools have problems like any other. We-- we're no better or worse than any other Nebraska community. Our-- the fact that we don't believe in Crete that our school resource officer is responsible for school discipline, that doesn't mean she doesn't have a job. That means she, she knows and understands the separation. So we have problems.

**CHAMBERS:** That is a critical and crucial distinction that you made and with that I don't have any more questions of you.

**STEVE HENSEL:** Sure.

**PANSING BROOKS:** OK. Any further questions? And I violated the rules because this is your bill as you remember.

**CHAMBERS:** Oh, that's right.

**STEVE HENSEL:** I appreciate the questions.

**PANSING BROOKS:** I've got, I've got people like, remember whose bill this is? I'm gonna get-- lose my position, not you. OK, the next proponent. Boy, we're-- no, it's good that we can laugh about it at this point. Thank you for being here, Chief. Thank you all for staying. Yes.

**ADAM STORY:** Good evening, Senator Pansing Brooks and the members of the Judiciary Committee. My name is Adam Story, A-d-a-m S-t-o-r-y.

**CHAMBERS:** Excuse me, could you either move closer to the mike or move it closer to you.

**PANSING BROOKS:** Yeah, please pull it closer.

**ADAM STORY:** Yep. I am the chief of police for the Hastings Police Department. I'd like to first thank you for this opportunity to speak with you on this matter. I'm here today to share information regarding my concerns with the affect LB589 would have on Nebraska law enforcement and our schools. I am respectfully in opposition to the bill. I've been serving the citizens of Hastings for over 23 years as a member of law enforcement. The Hastings Police Department has a great working relationship with all of the public schools, colleges, and private schools within our community. Currently, our agency has two full-time sworn police officers working within our schools as school resource officers. Their primary focus is the high school and the middle school. Our school resource officers attend basic school

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

resource officer training for 40 hours and advanced school resource officer training for 24. The National Association of School Resource Officers, or NASRO, teaches both of these courses. Our public school district pays half of the wages and benefits for these two school resource officers to work within the schools. These officers provide safety within the schools in the event of emergency. But more importantly they interact and build positive relations with the youth of our community. They are the liaisons between the students, parents, school administration, teachers, and the police department helping to improve the quality of life for all. Our school staff has the responsibility to manage discipline issues when it comes to school rule violations involving students. Our school resource officers do not manage disciplinary issues or enforce school rule violations with students. They are utilized to investigate criminal violations, school safety issues, and promote positive interactions in partnership with students, staff, and parents. Within our nation, there has been a dramatic increase with re-- in the recent years with tragic events within schools. We train our staff to face the dangers that can happen in our schools and to help identify them before they happen. Being present within our schools helps us to prevent and also take immediate action if there is danger to our student or staff. The safety of our youth is the priority for our community. Although school resource officers cannot always guarantee the safety, it is our goal to provide the safest learning environment within our schools. LB589 would have a significant negative impact on the safety, education, relationships, and students of our schools. We promote law enforcement and school partnerships building trust and working together to provide valuable services. School resource officers are trained sworn officers and capable and willing to address a threat for the safety of our students and staff within our schools. I respectfully ask that you support the continuing public safety and needed interactions with school resource officers in our schools by not advancing this bill.

**PANSING BROOKS:** Thank you, Chief. Any questions? The statistics show that you've had zero referrals to law enforcement. Is that correct?

**ADAM STORY:** And I don't know where they're getting the statistics. In our community, citations are written and we have a teen court so there's no official court action. It's a court of the peers. It's ran through a group. So citations are--

**PANSING BROOKS:** In court at the school?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**ADAM STORY:** No, no, no, no, it's, it's a court ran through the county attorney's office, but it's a court of peers made of other students and oversight.

**PANSING BROOKS:** OK. So with that, with that teen court, tell me about the citation. If, if the teen court finds the kids, what are the-- I don't know what you even call that person, but finds that they're guilty of whatever it is that they're coming before the court. What, what happens then?

**ADAM STORY:** I'm not an expert in all the punishment, but I think-- you know, some of it is community service or some type of corrective action.

**PANSING BROOKS:** They do have record at that point. Is that correct?

**ADAM STORY:** Not that I know of, no.

**PANSING BROOKS:** OK. Well, we've probably better find out what that all is. Thank you for coming today.

**ADAM STORY:** Thank you.

**PANSING BROOKS:** Any other questions? Nope. Thank you, Chief.

**ADAM STORY:** Thank you.

**PANSING BROOKS:** Appreciate you staying this long.

**ADAM STORY:** Yes.

**PANSING BROOKS:** Welcome.

**WAYNE HUDSON:** Thank you. Good afternoon, my name's Wayne D. Hudson, W-a-y-n-e H-u-d-s-o-n, and I'm a captain with the Douglas County Sheriff's Office. I'm in charge of our school resource officer program. We at the Sheriff's Office are keenly aware that there are concerns that having an SRO in schools may increase the rates of arrest for certain groups. I'm here today to discuss why my agency-- what my agency is doing to ensure this doesn't happen. The school resource officer program is a uniform-- uniformed sheriff's deputy placed in a school setting. The SRO serves as liaison between the Douglas County Sheriff's Office and the school. The presence of an SRO is intended to accomplish two goals. First, to work with, to work with as an SRO is intended to promote the reduction of crime and violence

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

in the school. Second, the SROs aim is to break down barriers that often exist between youth and law enforcement. The SRO will teach students about crime prevention, avoiding victimization, and reduce crime by helping students formulate an awareness of rules, authority, and justice. SROs shall build positive rapport amongst students by being visible and accessible to students' bodies, initiating their actions, and serving as strong role models. A few additional facts about the SRO program: my agency has-- currently has 6 SROs serving 11 different schools. The Douglas County Sheriff's Office has placed an SRO in a school setting for over 25 years. The current SROs has on average 14 years of law enforcement experience. The SROs are selected through a panel interview which includes the command staff of the sheriff's office and school administrative staff. The SROs are not the disciplinary police. School administrators are responsible for addressing disciplinary manners. The SROs only get involved if requested by the school officials based on the nature of certain incidents. All SROs are required to receive advanced training specifically to better understand and relate to juveniles. This training includes SRO basic training, policing the teen brain, and crisis intervention for juveniles. I'm gonna skip towards the back here since I've running out of time. One criticism of the SRO program is that it-- a disproportionate number of minority youth are referred to the community justice-- excuse me, criminal justice system. I had the SRO supervisor provide me with arrest statistics for the current academic year. The statistics include custodial arrest, citations issued, and juvenile referrals. All arrests for my agency were generated from school administrative staff. Total for this academic year, there was 15 arrests which included 19 different charges. When you break it down by race, there were 12 whites that were arrested and three African-Americans. By gender, there were 12 males and 3 females. In conclusion, my agency feels that having SROs in schools benefits the schools, local law enforcement agencies, and a community. The more positive interactions between SROs and the youth the better off our overall community will be. Thank you.

**PANSING BROOKS:** Thank you. Was it Chief? I'm sorry, didn't--

**WAYNE HUDSON:** Captain.

**PANSING BROOKS:** Captain. OK, Captain. Any questions for Captain Hudson? Thank you for coming--

**WAYNE HUDSON:** Thank you.

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Judiciary Committee February 14, 2019

**PANSING BROOKS:** --today and staying so long. We appreciate it. OK, any further opponents? Opponents? OK, neutral? OK. And if anybody else is in the neutral, please come down so that we can keep going. Welcome.

**JAMES WOODY:** Good evening, Vice Chair Patty Pansing Brooks and members of the Judiciary Committee. My name is James Woody, J-a-m-e-s W-o-o-d-y. I live in Senator Pansing Brooks's district. I'm here tonight to offer tangential but I hope germane neutral testimony on LB589 and I do it also in a spirit of contrition. Last night before this committee, there was a public hearing on a bill. I watched that hearing on television from the comfort of my couch. My conscience told me that I should come down here and speak on the bill but I allowed my anxiety about appearing before you to get the best of me. And I did not do the right thing. But I'm here tonight. Three years ago, I read a document that had a profound effect on me, and it changed the way that I see my country. That document was a report on an investigation of the police department of Ferguson, Missouri. In 102 pages, it laid out in clear detail how three branches of government had colluded and conspired together to reduce a segment of the population to nothing more than a revenue stream to fund the budget of the government. All the while subjecting those people to physical brutality. I felt then and I still feel today that this was tantamount to slavery. In that city, the, the report details how people were arrested on minor charges and taken to the jail and booked. They would not be released until they could post a cash bond. Being poor people having no money they could not, so they would enter into an agreement to be on a payment schedule. Having no money, being poor people they could not honor these agreements. A bench warrant would be issued for their arrest. They would be rearrested and the cycle would continue. If the senators have not read this report of-- over Ferguson Missouri, I would encourage you to and look at the individual stories that are in that report. I hope that this testimony is germane to 589-- LB589 and also the bill that I failed to muster the fortitude to come here and appear on yesterday. I believe that the report shows clearly how the different branches of government can bring their powers together in an immoral system. And when people of goodwill observe injustice in their community they have a moral obligation to dismantle those systems. Thank you, Vice Chair Pansing Brooks and Judiciary Committee for hearing my neutral testimony and allowing me to put into the record a remembrance of the report into the investigation of the police department of Ferguson, Missouri. I would yield to any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

**PANSING BROOKS:** Thank you Mr., thank you Mr. Woody for coming tonight and we'll try and look at that report. And any other questions?

**JAMES WOODY:** Thank you.

**PANSING BROOKS:** No. Thank you so much for coming. OK. No more neutral because nobody-- I don't think-- any more neutral? OK. Senator Chambers, would you like to close?

**CHAMBERS:** Would you like me to close?

**PANSING BROOKS:** If you'd like.

**CHAMBERS:** No, I'll waive closing

**PANSING BROOKS:** OK. Senator Chambers waives closing. OK. And that closes the hearing on LB589. Thank you all for coming to testify. And next we will start-- we will open with Senator Wayne's bill LB651. Senator Wayne. Senator Wayne is waning.

**WAYNE:** Thank you. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent District 13 which is north Omaha and northeast Douglas County. This bill is a simple bill where we have a Crime Commission that hands out grants. In the process, what we ran into in Douglas County, particularly Douglas County Board, is a situation where grant dollars are going to organizations that have no direct impact on kids. So I will keep this short. I have been working with the Crime Commission and NACO to come up with a way-- and I think we've had concepts and we just have not fleshed out the language of the amendment to where it will be-- the, the spirit of my bill will be applied to Douglas County, Sarpy County and Lancaster. We will add a portion of dis-- disproportionate minority contact and how that needs to be a primary goal when handing out grants. But more importantly by limiting to those three, what you'll see is a disparity of Douglas County spends about 18 percent of their grant on administration of which \$95,000 goes to pay one particular salary and that salary has no direct impact on kids. Whereas, Lancaster is less than 1 percent and Sarpy County is around 3 percent. So we are gonna bring an amendment that's gonna add a cap to make sure that monies that we as a state are handing out to political subdivisions and organizations are actually going to the kid that is supposed to serve and not people's salaries who do not have direct impact with kids. And the person who brought this idea, I want to make sure it's in the record is LaVon Stennis-Williams. She lives four houses down from me and has been a

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Judiciary Committee February 14, 2019

close friend of the family forever. But looking at the disparities that happen in Douglas County is not right. It's not fair and it impacts our kids disproportionately in a negative way. But I'm glad that we brought the parties together and we're coming to an agreement. And so if there's people testifying, understand that's where we're going with this and hopefully in the next three weeks I'll have a, a draft. I would have one sooner but I'm working on a hemp draft that I have to get done. But we will get it done in the next three weeks to this, to this committee. And with that, I'll answer any questions.

**PANSING BROOKS:** Thank you, Senator Wayne. Any questions? Yes, Senator Chambers.

**CHAMBERS:** Senator Wayne, Senator Wayne, would you mind if I would sign on the bill with you?

**WAYNE:** No, I would not, sir.

**CHAMBERS:** Thank you.

**WAYNE:** Thank you.

**PANSING BROOKS:** Any other questions? I know that Ms. Stennis-Williams needed to leave so she probably would be here tonight except for--

**WAYNE:** Yes, her husband was cooking her dinner and her husband texted me and says she cannot be there that much longer. So--

**PANSING BROOKS:** Yeah. Thank you--

**WAYNE:** Thank you.

**PANSING BROOKS:** --so much, Senator Wayne. OK. More-- any proponents?

**KELLEE KUCERA-MORENO:** Hi, Kellee Kucera-Moreno, K-e-l-l-e-e K-u-c-e-r-a hyphen M-o-r-e-n-o. I just want this on the books like Senator Chambers does, that I want this-- the Judiciary Committee and the legislative committee know that when we're allocating money for-- what we're allocating money for that it needs to go to that. I'm afraid that once it goes through the legislative part of things and it moves on that we're not gonna be heard. I'm afraid that the Governor might not listen. If you don't understand this bill, find out about it. If you don't understand racial inequality, study it. I didn't know any of this before I spent time with Senator Chambers, and I would just like to thank you because you did teach me a lot. But at this

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Judiciary Committee February 14, 2019

stage, we're gonna take action. The constituents out here we will take action. I think you said something once about everybody gets a day in court. I hope you're at mine. Thank you.

**PANSING BROOKS:** Thank you, Ms. Moreno. Any questions? Seeing none, thank you for coming. OK. Any additional proponents? Proponents? OK. How about opponents? Welcome.

**LARRY STORER:** Larry Storer, 5015 Lafayette Avenue, Omaha, Nebraska. Well, ladies and gentlemen, I do read a lot of these things on different topics. And once again whether you like it or not it's about this. Now the reporter that did these stories, Mr. Adam [INAUDIBLE], seems to get his information pretty freely from people like yourselves, and Douglas County Board, the Omaha City Council. But the citizens, like I, don't know any of this until we might read something like that. The money, follow the money. OK. I suggest that what I've seen in some of these bills is that money from the Learning Community Councils that were supposed to solve a lot of these problems for us, all of a sudden the Learning Community Council is defunct but the money is going to different bodies. So I think that's part of what this is not community-based organizations. We've been hearing this for a lot of years. But if the populations are up in the Douglas County Jail and everywhere else, why haven't the community-based organizations that have already been getting taxpayer dollars been successful? Why are their numbers up? OK, now in these you can hear that the numbers are gonna go down because of the programs. Well, whose programs? Whose best practice are we funding? I remember once again when the state, according to the Pennsylvania judge, the state brought him in to help organize something like ChildFind, Save the Children, Save the Families. Now it's called Strengthening Families Act. But some of the same people who are behind these things, and one of those organizations is the Sherwood Foundation, but now we hear it's going to be the University of Nebraska Juvenile Justice Center. That's what this is all about. We're being hoodwinked. The money already wasted hasn't done what it's supposed to do. So why would you give them more money? It's time to give the taxpayers a break and stop taking out of my pocket to give to somebody else. That's unconstitutional. Thank you.

**PANSING BROOKS:** Thank you, Mr. Storer. Next opponent. Welcome, Ms. Menzel.

**ELAINE MENZEL:** Thank you, Vice Chair Pansing Brooks and members of the Judiciary Committee. For the record, my name is Elaine Menzel,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

E-l-a-i-n-e M-e-n-z-e-l. I'm here on behalf of the Nebraska Association of County Officials. I'm appearing in an opposition position, but I will let you know that I would first and foremost like to thank the Legislature for funding this program for the community-based juvenile justice aid. We've been able to do a lot of good things through the years. It was first created for purposes of counties in 2001. In 2013, it was expanded to go to Indian tribes as well. So now it's community-based aid. Through the years they have developed-- your committee and the Legislature has developed oversight and administration position within the Crime Commission to oversee these funds. They do evaluate with the Juvenile Justice Institute. I think Senator Wayne's bill is beneficial in that it's helped bring attention to this program and as he indicated he has been willing and receptive to comments that we have related to language that would potentially-- where-- have his concepts addressed. But at the time address concerns which we have in terms of it being utilized in other counties for planning and training and coordination. And you are going to hear from one of those administrators that utilizes some of those funds for what may not be considered direct services. I would be glad to answer any questions if you have any.

**PANSING BROOKS:** Does anyone have a question? Nope. Thank you,--

**ELAINE MENZEL:** Thank you.

**PANSING BROOKS:** --Ms. Menzel. Welcome.

**CARISSA UHRMACHER:** Hi there. I'll put it up here so you can hear. My name is Carissa Uhrmacher, C-a-r-i-s-s-a U-h-r-m-a-c-h-e-r. Thank you for the opportunity to testify in opposition of LB651 as written. I'm the project director for a sub-grantee that uses these dollars. Our lead county is Adams and the other counties are Clay, Nuckolls, Webster, Fillmore, Harlan, Phelps, Kearney, and Franklin. I'm starting my 15th year in this position. Direct services are the majority of our funding, 85 to 90 percent and they cover a wide spectrum: prevention, promotion, after school programs, truancy, mentoring, diversion-- the teen court brought up earlier, assessment, alternatives to detention, and most recently restorative justice. These programs benefit 600 to 700 youth annually across our rural nine area and they're able to happen because of the coordination done with the system improvement piece. LB651 greatly affects 10 to 15 percent of our funding that enables county planning, grant administration, and reporting, all required by statute. I lead our Youth Task Force, the team that oversees allocation proposals, program coordination, and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 14, 2019

communications on utilizing those funds in the best, best way as well as looking for other available funding. As the project director, I am able to be nonbiased in those allocations and I visit the nine county Board of Supervisors annually where they're updated on program activities and they approve funding applications. Our system improvement costs for the grant also include mileage, training, and phone communication. When these dollars were first established they were meant to assist the counties according to individual needs with an emphasis on that local control. That allowed each county to utilize tax dollars as best they could for the needs most prevalent in their area. This is how we saw best to use our programming. These programs run on minimal funding with the position spending their time on serving the youth. Each program out in our nine-county area does not have the time or resources to perform the planning and administrative pieces required. Without this coordination piece, our rural nine counties have no program building capacity that comes together to divert these juveniles from the system. I'm also part of the State Advisory Team that reads these grants. And of the 35 submitted, 19 used some sort of funding for system improvement. This can range from my position, as I just mentioned, to backbone support, data collection, evaluation training, and DMC. This piece is also important enough that it's now evaluated by the Juvenile Justice Institute. I appreciate the chance to present in front of you and how the elimination of system improvement could take away a critical piece of this funding coordination. Thank you for your time and attention. I'll just mention that the handouts include my testimony, my job description, a report that I give to all my boards of supervisors, as well of a history of our funding, and the written testimony was submitted by one of our county attorneys that I think will help see what a difference this system coordination piece does to fit with the direct services.

**PANSING BROOKS:** Thank you, Ms. Uhrmacher. Any questions for Ms. Uhrmacher? Nope. Well, we're glad you're here.

**CARISSA UHRMACHER:** Thank you.

**PANSING BROOKS:** Thank you. Any other-- let's see, was that neutral?

**DeBOER:** Opposition.

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Judiciary Committee February 14, 2019

**PANSING BROOKS:** Any other neutral testimony? Nope, I don't think so. Senator Wayne, where are you? [LAUGHTER] Would you like to-- yay. OK, thank you.

**WAYNE:** I just wanted to see if there's any questions. Not any, thank you. [LAUGHTER]

**PANSING BROOKS:** OK. Well, that closes the hearing on LB651. Thank you all for being patient and being here and Happy Valentine's Day. Go find your loved ones.

**BRANDT:** Happy Valentine's Day to you.

**PANSING BROOKS:** Thank you.