

Transcript Prepared by Clerk of the Legislature Transcribers Office
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LATHROP: I think we'll get started, and as is usually the case I'm gonna begin by kind of reading the rules of the room. Good afternoon and welcome to the Judiciary Committee. My name is Steve Lathrop and I represent Legislative District 12 in Omaha. I'm also the Chair of this Judiciary Committee. On the table inside the doors, you will find yellow testifier sheets. If you are planning on testifying today, please fill one out and hand it to the page when you come up to testify. There is also a white sheet on the table if you do not wish to testify, but would like to record your position on a bill. For future reference if you're not testifying in person and would like to submit a letter for the official record, all committees have a deadline of 5:00 p.m. the last workday before the hearing. Keep in mind that you may submit a letter for the record or testify in person at the hearing, but not both. And only those actually testifying in person at the hearing will be listed on the committee's committee statement. We'll begin testimony with the introducer's opening statement, followed by proponents of the bill, then opponents. And finally, by anyone speaking in a neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We utilize an on-deck chairs to the left or immediately behind the testifier's table. Please keep the on-deck chairs filled with the next person to testify to keep the hearing moving along. We ask that you begin your testimony by giving us your first and last name and spell them for the record. If you have any handouts, please bring at least 12 copies and give them to the page. If you do not have enough copies, the page can make more. And if you are submitting testimony on someone else's behalf, you may submit it for the record, but it will not-- you will not be allowed to read it. We will be using-- utilizing the three-minute light system. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the light turns red, we ask that you wrap up your final thought and stop. As a matter of committee policy, I'd remind everyone that the use of cell phones and other electronic devices is not allowed during public hearings. Those-- you may find some senators taking notes or staying in contact with their staff utilizing those devices. At this time, I'd ask everyone to check and make sure their cell phones are in the silent mode. Also, verbal outbursts and applause are not permitted in the hearing room. Such behavior may be cause to have you excused from the hearing. You may notice committee members coming and going, sometimes they're not here right when we start, and that has nothing to do with how they regard the importance of your bill, but they have bills to introduce in other committees and

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may be absent at different times. We'll begin by having the committee members introduce themselves, starting with Senator DeBoer.

DeBOER: Hi. My name is Wendy DeBoer. I represent District 10, which is in northwest Omaha in Bennington.

BRANDT: Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County.

MORFELD: Adam Morfeld, District 46, northeast Lincoln.

LATHROP: Assisting the committee today are Laurie Vollertsen, to my left, our committee clerk; and Josh Henningsen, who is our legal counsel today. Our committee pages are Ashton Krebs and Lorenzo Catalano, who are both students at UNL and do a good job. With that, we will begin the hearing and our first bill up is LB832. You heard me say it, give the rules of the committee and I'm gonna break a couple of them on the first bill, but not to create a long-standing process, but because as the Chair made that exception today. Senator Bostelman, you are free to open on LB832. Welcome to the Judiciary Committee.

BOSTELMAN: Thank you and good afternoon, Senator-- Chairman Lathrop and Judiciary Committee. My name is Bruce Bostelman, that's B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I am here today to introduce, introduce LB832, which amends Section 28-101 to provide for immunity from criminal and civil liability for removal of a child from a motor vehicle by forcible entry as prescribed. According to Kids in Cars in the United States in 2019, 53 children under the age of 15 passed away from heatstroke after being left in a vehicle. On average, 39 children are lost this way, this same way in the United States each year. That is one child every nine days and that number is growing. I am bringing this bill as a result of a tragedy that occurred to a family in my district when a child was mistakenly left in their vehicle and passed away. You will hear from the family after my introduction. According to the National Highway Traffic Safety Association, heatstroke isn't about irresponsible people intentionally leaving children in cars. Most cases occur when a child is mistakenly left or enters into a vehicle unattended and becomes trapped. I have handed out an article from contemporary pediatrics that walks through the science of how this type of tragedy can truly happen to anyone and explains the competing memory systems at play from the neuroscience perspective. In addition, I've handed out the National Safety Council's Kids in Hot Cars for your information. This bill is very important to raising awareness that

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such tragedies have occurred in Nebraska and provide information on how to respond and to save a life. There are 21 states that have taken action by enacting similar legislation since 2014. I ask for your support of LB832 and its advancement to General File. I would be happy to answer any questions.

LATHROP: Senator, I don't see any questions at this time, but we appreciate the introduction and bringing the bill before the committee.

BOSTELMAN: Thank you.

LATHROP: How many people are going to testify on this bill? Four. OK, you may come forward. Good afternoon.

TRISHA NICOLAS: My name is Trisha, T-r-i-s-h-a, Nicolas, N-i-c-o-l-a-s. I am here to testify in support of LB832. I'm testifying as a mother whose family has been in support-- or has been directly impacted by the tragedy this bill is intended to help prevent. August 7, 2019 was the worst day of my life. I had been up throughout the night with our youngest child, Weston. He fell asleep during breakfast, which was unusual for him due to being so tired from the sleepless night. After getting him ready, I left with Weston to go drop him off at daycare before I went to work as a pediatric occupational therapist. There was construction on the highway, so I was taking an alternate route to work and I remember thinking that next week I would need to remember to drop Weston off at his new daycare in the country instead of driving into Columbus with him as I had done for almost two years. I remember thinking it would be strange to drive into town without one of my children with me because I had done so for almost ten years. I believe that is where my brain went wrong and instead of taking Weston to his current daycare, I went straight to work with my brain moving on to my new routine I would be starting the next week. I thought about our five children all day and was so excited to pick up Weston from daycare, then pick up our other four children who were at home with our summer babysitter and go to the park for a picnic. Instead after work, I drove to daycare and was told that Weston had not been there all day. That is when I discovered the worst mistake of my life. Weston had fallen asleep immediately when I put him in his rear-facing car seat and remained asleep the entire way to work. If he had been awake and crying when my coworkers parked their vehicles and walked past my van, I would not have wanted them to hesitate breaking into my van any way they needed to in order to get Weston out. Anyone that would have done that would have been a

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hero and saved our family from this tragedy. Unfortunately, Weston remained asleep-- sorry, and no one was in the parking lot when he likely woke up and began crying. Had someone heard him, I would not have wanted them to worry about breaking into my van. People should not have to worry about the consequences of that. The only consequence that should matter is the life of the child. Broken glass and property can be replaced, but a child cannot. To me, this bill is an extension of the Good Samaritan Law, and anyone acting in the best interest of a child left unattended in a vehicle should be protected by the law. Since we lost Weston, so many people have shared their close calls of when they unintentionally left their children in their vehicles. The chance of this tragedy happening is greater than we even know. Other parents' children were saved by a variety of reasons. I wish ours had only been a close call. I would never have wanted to hurt any of my children. I love all of them with all my heart. It is my life's mission now to do whatever I can in support of any legislation or cause, including our nonprofit organization that we are starting in our son's name called Weston's Wish that could potentially decrease the risk of this tragedy happening to another family. I want Weston's life to make a difference through the work my husband and I will do to honor his memory. I beg you to support LB832. Thank you for your time and consideration of supporting this bill. Do you have any questions for me?

LATHROP: Miss Nicolas, I don't see any questions, but thanks, it was a very brave thing to come here today and to tell that story.

TRISHA NICOLAS: Thank you.

DELANIE HUDNALL: My name is Delanie, D-e-l-a-n-i-e. My last name is Hudnall, H-u-d-n-a-l-l. I'm here with Trisha Nicolas so that she can share her story with all of you. I've known Trisha for 15 years. I've seen her date her husband, engaged, wed, and have a beautiful family. Tricia is one of the most dedicated, cautious, thoughtful, and caring mothers. And we've always talked about how much Trisha loves her family, so to have this happen to Trisha and her family is incomprehensible. If it can happen to her, it can happen to anyone. We were all there that day, and any one of us have thought about that day and what may have changed the outcome. As Trisha had testified, knowing people understand that it's OK to intervene without hesitation saves time and possibly makes a different outcome for another family. Thank you for listening to Trisha's story today and thank you for support-- supporting this bill.

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LATHROP: Thank you for your testimony and thanks for being here today. I don't see any questions,--

DELANIE HUDNALL: Thank you.

LATHROP: --but thanks again. Good afternoon.

ERIC KOEPPE: Good afternoon, Senator Lathrop. My name is Eric Koeppe, E-r-i-c K-o-e-p-p-e. I am the president and CEO of the National Safety Council Nebraska, a not-for-profit organization providing programs, resources, education to prevent both the personal and economic loss associated with injuries, accidents, and health hazards. I am here today to testify in favor of LB832. The bill promotes the ideals of keeping Nebraska a safe place to live and raise our children. In 2018-- and I'm glad the senator passed out a copy of this study, the National Safety Council released a groundbreaking report on pediatric vehicular heatstroke, or PVH. The report was titled Kids in Hot Cars, A Legislative Look Across the United States. In an effort to better understand and document this risk, the National Safety Council worked with many national experts. The objective this report was to support stronger laws to protect children from being left unattended in vehicles, increase awareness and the understanding of vehicular heat dynamics, increase awareness of the risk of children gaining access to vehicles on their own, encouraging policies for childcare providers, and recommend the study of factors that contribute to the unknowing leaving of child in a car. The report also featured some firsthand information. I will point out that on page 11, number 5, they specifically call for this type of legislation that's in front of you today to be adopted to allow the individuals beyond law enforcement to, to enter a vehicle. As Senator Bostelman pointed out, at the end of 2018, the average of 38 children die needlessly every way-- every year, 2018 was the deadliest year on record with 53 children dying from this. In the past 20 years, more than 800 children died in the U.S., 87 percent under the age of 3 and, in fact, 55 percent under the age of 1. Sadly, as we heard today, 24 percent of those were left in an employer's parking lot. While Nebraska child vehicular heatstroke fatalities are relatively low compared to other states, we must be diligent in providing protection necessary to good Samaritans whose only goal is to save a life. I encourage you to advance LB832 from committee and thank you for your consideration.

LATHROP: OK. I don't see any questions. Thanks for being here.

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ERIC KOEPPE: Thank you.

LATHROP: Next proponent. Good afternoon.

FREDRIC VOELKER: Good afternoon, ladies and gentlemen of the Judiciary Committee. My name is Fredric Voelker, it's F-r-e-d-r-i-c, last name's V as in Victor o-e-l-k-e-r. I'm here to testify on behalf as a proponent for LB832 today. Thank you for hearing my-- hearing me this afternoon. One of the many things I've had the opportunity to do in my life is I have spent several years as a safety and environmental consultant for the Nebraska Safety Council. I have-- I'm also a first aid CPR instructor. And for the last 20 years of my life, in one capacity or another, I've been a police officer who's been certified. During my time as a certified police officer, I have on two occasions had the, if you want to call it opportunity, to pull a child out of a hot car. On one occasion, the mother had locked herself out of the car. She was frantic and did not know what to do. As I pulled up, she was terrified. It was a, it was a hot summer day here in this part of the world, as we're all aware, temperatures easily get up into the upper 90s, low 100s inside of the car, as I could only imagine it had to have been 110 to 115. The child was sweating profusely and starting to go into signs of distress. I was able to easily break the window and get the child out. Another time I was contacted by a mother in a parking lot as she was walking by and saw a child sitting in a car. The child had been left there on accident as the mother ran inside in a hurry to pick something up for a party or some other event, and during that time had forgotten her child. As we are out there and we are looking as we go day to day in our lives, we find numerous distractions. Nowadays, it's not uncommon at all for us to have distracted driving warnings and things like that in our world to remind us to speak and think about things in our vehicle to keep our minds focused on the road. As we get out of our cars nowadays, I'm sure each of us have walked into a store of some sort and seen the signs reminding us to put something in the backseat that's important so we remember our child. This is not a one-time event. We've heard numerous people testify already today about how many people have already done this and how it's already-- has already affected us in our lives. As a CPR instructor, we're allowed the Good Samaritan Laws to protect us when we do CPR on people as we take time to try to keep people alive. In my, in my reading of this bill, I see that as long as we're using reasonable measures and good faith that we are able to act without fear and consequences, civil liabilities. The second child I saved out of a car, that person did not break the window out of fear

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of being sued. That person didn't break the window out of fear of criminal charges, having law enforcement show up and arrest them for damage to property. When we're looking at a life on the line, especially a young child, that should never be a fear. I thank you for your time and I'm willing to answer any questions you may have.

LATHROP: OK. I do not see any questions, but thanks for being here today.

FREDERIC VOELKER: Thank you very much.

LATHROP: Other proponents? Good afternoon.

TRAVIS HEDLUND: Good afternoon, Chairman Lathrop and members of the Judiciary Committee. Thank you for this opportunity to be here today. My name is Travis Hedlund, that's T-r-a-v-i-s H-e-d-l-u-n-d. First, I'd like to thank, Miss Nicolas, for her brave and important testimony. I work at Children's Hospital & Medical Center. I'm the injury prevention coordinator there. I'm also the Safe Kids Douglas County coordinator. I have several years of public health experience and I'm involved with multiple injury prevention issues, child passenger safety being one of my main concerns. I want to speak to you briefly today about the importance of passing LB832, which could help in saving the lives of children in our state. I just want to start out by providing a few facts for you. According to the National Safety Council, over the last 22 years there has been an annual average of 39 children under the age of 14 that have died due to being left in a hot vehicle. With more awareness and advancements in technology, you would hope to see that average going down, but unfortunately we're seeing the opposite. The last 2 years have had the highest number of deaths since 1998, with over 50 children dying in each of 2018 and 2019. Studies have shown that temperatures can rise an average of 40 degrees in just one hour. And considering that 80 percent of that rise happens in the first 30 minutes, it's crucial that children are removed quickly and without hesitation when left in a hot car. And to rebut a common practice, cracking the window does not help. At Children's Hospital, we have a car seat fitting station where the public can make an appointment to have their car seat checked to make sure it both fits their child and their vehicle. As the local coalition leader for Safe Kids Worldwide, we also run car seat events throughout Omaha around the year where parents can have their seats checked. Last year, 954 car seats were checked at either our fitting station at Children's or one of our local events. For every one of these car seat checks, it is our goal that parents are given education on the importance of

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never leaving children unattended in a car. We go over the danger, tips, and techniques to prevent parents from forgetting their child in the car, and often we give out window stickers to help parents remember. In our coalition, as well as the rest of the state, we do a lot to educate parents and caregivers on this danger. When I help a parent with a car seat fitting, I often get to the part, or I eventually get to the part of the education where I talk about not leaving their child in their car. And I get the response all the time, oh, I would never do that. I can't understand how that would ever happen. It does happen. It happens a lot in this country and in this state. It happens to good parents who love their children on days when they are running late or their routine is thrown off and it sometimes only takes a single moment of forgetfulness to cause a tragedy. Earlier you heard about last year's death of a child in a hot car in Columbus told by a loving mother who may just such a mistake. This was the first such death in Nebraska since 2003, and we all hope it will be the last. But we're also here today working on a positive step to prevent it. If this proposed law reduces the likelihood of that tragedy by encouraging bystanders to act, then it's a worthwhile law. It's my hope and the hope of Children's Hospital that this bill will advance from committee and find strong support in the Legislature. I thank you for your time and I'm happy to answer any questions.

LATHROP: Senator Brandt.

BRANDT: Thank you, Mr. Hedlund, for testifying today. Can technology help us with this problem? Is there some way they can put a beeper in the seat or a cell phone attached to the seat that sends an app out to the parents' cell phone? What's the state of the industry today?

TRAVIS HEDLUND: Sure. Thank you for your question. There are a couple technologies that I'm aware of. Some car seat makers actually have a-- I don't know the proper word for it, but it's a device that attaches to the clips on the car seat and then it plugs directly into your car. The idea is, is that if the car seat is buckled up like it should be, obviously if you're transporting a child, every time you turn the car off, it will beep to remind the parent that the car seat is buckled up and there's a child in the car. And so that's supposed to remind the child. I also know that some car companies are toying with the idea of having sensors in the seats. If there is, you know, a weight in the seat, that once again the car is turned off, it will beep trying to alert the parent that there might be someone in the backseat or something like that.

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BRANDT: All right.

TRAVIS HEDLUND: Those are the two that I'm aware of.

BRANDT: Thank you.

TRAVIS HEDLUND: Um-hum.

LATHROP: I don't see any other questions. Thanks for being here.

TRAVIS HEDLUND: Thank you.

LATHROP: Anyone else here to testify as a proponent? Anyone here in opposition? Anyone here to testify in a neutral capacity? Seeing none, Senator Bostelman, you are recognized to close. I will mention that we do have two letters of support: one from Steve Hensel, Police Off-- Police Chiefs Association of Nebraska; and Rose White, at AAA Auto Club.

BOSTELMAN: Thank you, Chairman Lathrop. Thank you for those who came in and testified today, especially Mrs. Nicolas. This is an important bill that will provide for immunity from criminal and civil liability for removal of a child in imminent danger from a motor vehicle by forcible entry. Tragedies such as these are becoming more and more common in the United States, and our state has been gravely impacted by such tragedy in this past year. Twenty-one other states since 2014 have enacted legislation similar to this in response to these tragedies. Nonprofits and hospitals, as you have heard, across the country are trying to raise awareness on this issue. And this bill will be a big step forward for the state of Nebraska in doing so. As Mrs. Nicolas stated, broken glass and property can be replaced, but a child cannot. I ask you to move this bill as quickly as possible onto the floor. Thank you.

LATHROP: Thank you, Senator Bostelman. I don't see any questions, but thanks--

BOSTELMAN: Thank you.

LATHROP: --for bringing this to the committee.

BOSTELMAN: Thanks.

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LATHROP: That will close our hearing on LB832 and bring us to LB945 and Senator Cavanaugh. Good afternoon. Welcome, Senator Cavanaugh.

CAVANAUGH: Thank you, Chairman Lathrop and members of the Judiciary Committee. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I represent District 6 in west central-- sorry, west central Omaha. I'm here to introduce LB945, which would require cities with 100,000 or more residents to annually report their inventory of untested sexual assault kits. The number of untested sexual assault kits around the country, commonly referred to as rape kit backlog, is unknown, but it is estimated to be in the hundreds of thousands. Here in Nebraska, it has been estimated to being 2,000 or more. In both cases, estimates are hampered by a lack of publicly available data. LB945 addresses this by ensuring that the Legislature and the public have access to an annual report of the number of sexual assault kits currently sitting untested in evidence. None of the information in the report will be able to be used to identify individuals. An inventory of all untested kits is for-- is the first of six pillars in the Joyful Heart Foundation and the backlog initiative, which works to eliminate the current kit backlog, backlog and ensure one never develops again. Not only will it help policymakers understand the scope of the problem, the data over the years will help determine if the corrective measures taken are effective or if more are needed. The cities of Omaha and Lincoln are the current municipalities impacted by this bill. Neither city had any objections. LB945 will improve government accountability to and transparency for not only the public in general, but survivors of sexual assault in particular. I urge the committee to advance this bill to the floor. Thank you for your time and I'm happy to answer any questions you may have.

LATHROP: Can I ask a couple of questions?

CAVANAUGH: Yep.

LATHROP: By rape kit, are you talking about something like evidence that's gathered at a hospital when a,--

CAVANAUGH: Yes.

LATHROP: --when a victim presents?

CAVANAUGH: Yes.

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LATHROP: And do you have any idea why there's a backlog at all? Why--

CAVANAUGH: I--

LATHROP: --that seems like it's too important--

CAVANAUGH: So.

LATHROP: --for a criminal activity, why we're not processing.

CAVANAUGH: That's the point of the report is to get that information. But my understanding, although it's not currently documented publicly, is needing more funding to hire more staff. So the staff that they have-- and, you know, has to be forensic staff, but the staff that they have can't-- can only-- has only so much capacity.

LATHROP: Are these untested kits something that-- is this evidence taken from somebody that declines to follow through with the prosecution?

CAVANAUGH: It depend--

LATHROP: I mean, is there somebody who said, I was raped, I want to be prosecute-- I want this guy prosecuted and--

CAVANAUGH: So last,--

LATHROP: --we're not testing the kit?

CAVANAUGH: --last year, Lincoln decided to start testing the kits that they had not previously been testing by the fact that the person who the evidence was taken from knew the accused. So if they knew the accused, they didn't test the kits. I don't know what the logic is there, because over 80 percent of sexual assaults, the assailant is known to the victim. So-- but also that is prohibitive of tracking if we have a serial rapist as well. So--

LATHROP: OK. Senator DeBoer.

DeBOER: So what information is provided when they test the kit, what-- other than DNA? So if what they-- I guess my question is if what they determine is the identity of the person who committed the crime, then if the person knows who it is, it seems unnecessary to do the testing. So can you help me with that?

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CAVANAUGH: So like if you don't test the kits for the known assailant-- well, first of all, you're not putting evidence into the record that, that that is actually just because it's your-- you know, that your word against mine sort of thing. So that's actual scientific evidence of, of the perpetrator. But also, if they're-- that perpetrator is a serial rapist and is raping multiple women and they are known, then none of that has been entered. So we're not-- we're, we're losing the potential to catch that. But that's sort of digressing from what this bill is intending to do, that's more what we were learning last year that Lincoln was not previously testing those kits. They are now testing those kits. But that was part of their way of getting around their backlog of just testing unknown assailants.

DeBOER: So I guess, I guess to kind of reask a, a same question because I didn't pick up on the answer. If-- is there-- are there cases-- have we found cases where someone has had a rape kit done and then they would-- the, the prosecution doesn't have that available as evidence?

CAVANAUGH: Yes, in Lincoln, that was the case.

DeBOER: That, that somebody wanted the evidence and they didn't have the evidence.

CAVANAUGH: They weren't testing them. So yes, the evidence wasn't available.

DeBOER: No, I mean, did they try to do a prosecution and didn't have the evidence?

CAVANAUGH: Oh, I don't have any like anecdotal case law. I just know that they weren't testing them so they wouldn't have had the evidence if they weren't testing them.

DeBOER: Do you know if the policy is to sort of skip to the front of the line, something if-- to test it if there is gonna be a prosecution? Do you know that?

CAVANAUGH: I don't. No.

DeBOER: OK. All right. Thank you.

LATHROP: Senator Brandt.

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BRANDT: Thank you, Chairman Lathrop. Thank you, Senator Cavanaugh, for bringing this bill. I noticed it just applies to metropolitan and cities of the primary class. What is the current state of the problem in the entire state of Nebraska, outstate Nebraska? Is there a problem out there also?

CAVANAUGH: Thank you so much for that question, Senator Brandt. I'd be happy to expand the scope of this to be the whole state. It was my intention to just start moving this forward and Omaha and Lincoln have the largest number. We do have the State Crime Lab, which everyone-- every county uses currently. And if we want-- if the committee is interested in this, I'd be happy to expand the scope of this to just have the State Crime Lab issuing an annual report, which I think would be very helpful to all of us, but most of the, the cases are processed in Omaha or Lincoln.

BRANDT: But would the-- if the-- these small counties or the sheriff doesn't submit it, is the Crime Lab even aware-- I mean, are these kits being held in the counties or are they being held at the State Crime Lab?

CAVANAUGH: They would be held at the State Crime Lab, I believe, but I don't know for certain. I can find that out for you.

BRANDT: OK.

CAVANAUGH: But the State Crime Lab processes the kits for every county exclusively, except for Douglas County has an agreement where some of their kits are processed at UNMC.

BRANDT: I, I would be interested to see what kind of problem this is through the whole state. So-- but thank you.

CAVANAUGH: Me too. Thank you.

LATHROP: OK.

CAVANAUGH: OK.

LATHROP: I don't see any other questions. First proponent of LB945 may come forward. Good afternoon.

CHRISTON MACTAGGART: Good afternoon. Good afternoon, Chairperson Lathrop, members of the Judiciary Committee. My name is Christon MacTaggart, spelling, C-h-r-i-s-t-o-n, last name, M-a-c-T-a-g-g-a-r-t.

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I'm the domestic/sexual violence project manager for the Women's Fund of Omaha. And I'm here on behalf of the Women's Fund to testify in support of LB945, and hopefully also able to answer some of your questions as we've been involved in this issue for a number of years now. LB945 will support current national best practice around sexual assault kit testing by ensuring that the state's largest cities provide an annual report on untested sexual assault kits. Those new national best practice for kit testing were published by the National Institute of Justice, and they recommend that all sexual assault kits should be tested. Adopting this best practice will enhance public safety as the testing of kits, as you've heard, allow law enforcement to identify serial rapists and potentially stop them from reoffending. It's historically been the case that the majority of sexual assault kits were not analyzed and uploaded to DNA, as you've also heard. Kits would only be tested in situations where DNA was needed to prove the identity of the offender, such as in a stranger sexual assault. If the parties were known to each other, for example, then the kit was most often not tested. And that practice is what led to hundreds of thousands of untested kits across the country sitting in law enforcement evidence rooms, sometimes for decades. We've worked closely with the Omaha Police Department on their efforts to test approximately 1,500. So of the 2,000, a little over 2,000 kits that we know about across the state that Senator Cavanaugh mentioned, approximately 1,500 of those exist within the Omaha Police Department. They currently track the number of their untested kits. They have also changed policy and practice to test kits prospect-- prospectively moving forward so they don't end up in a similar situation down the road. Those kits are now going to the State Crime Lab and being entered into the national DNA database. The State Crime Lab has also been a close partner with us on this project and has expressed their dedication to changing practices in support of testing all kits moving forward. Currently, the biggest obstacle to that is the-- is timely processing around capacity of the State Crime Lab. We're also working with the Appropriations Committee to provide additional resources to reduce an approximately year-long backlog of kits at the Crime Lab. Nonetheless, all agencies involved are committed to working through obstacles and supporting this issue statewide. They-- I would also say the Women's Fund is in full support of expanding this bill to requiring reporting statewide. And I wanted to answer one of the questions about if evidence is needed for a prosecution. The Crime Lab does have a process for prioritizing that evidence. And so if they need the evidence for prosecution, they'll move it to the front of the line and, and pass it on. I don't know that I remember all of the

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questions that you asked Senator Cavanaugh, but I would say, again, I'm happy to answer additional questions about this issue. It's something that we've been involved in for several years now so have done a lot of research on it.

LATHROP: OK. Senator DeBoer.

DeBOER: Does the evidence degrade if it's not immediately tested or not tested within a certain window of time?

CHRISTON MACTAGGART: For the record, I'm not a forensic scientist, but what I will tell you from the research that we've done and from our work with the Crime Lab is that it can, and it does. And so typically, those kits are recommended to be refrigerated or frozen prior to testing.

DeBOER: And is that currently the practice in Nebraska do you know?

CHRISTON MACTAGGART: It depends on the agency. So every law enforcement agency really has their own process for what those kits look like until they get to the Crime Lab. And then once they're at the crime lab, then, then they are typically held according to what standards would be.

DeBOER: What's the point of doing the kits if they're not gonna test them?

CHRISTON MACTAGGART: That's an excellent question that I don't necessarily have the answer to. I, I would say, again, national best practices changed. I think in the past there was the idea that if we don't need the DNA because it's not an issue of was there sexual contact, it's an issue of was it rape, then they just wouldn't test them. And I think what they have found and what we've seen nationwide since then is that for jurisdictions that are going back and testing those old kits, they're finding a high percentage of serial rapists there because they weren't ever-- they did-- they weren't ever connecting that DNA.

DeBOER: So does-- so after they test a kit, then it gets uploaded and it's available across jurisdictions so you can make that comparison to determine?

CHRISTON MACTAGGART: It's held in a-- and my understanding is it's held in a national-- it's held in a DNA database, essentially. And so if there are other sexual assaults that occur, when they enter that

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DNA evidence there would be a hit to another case. It's what they call a hit. And it would connect it to another, another existing DNA in the database.

DeBOER: Thank you.

LATHROP: OK. I don't see any other questions,--

CHRISTON MACTAGGART: OK.

LATHROP: --but thank you for being here today.

CHRISTON MACTAGGART: Yes.

LATHROP: Other proponents? Any other proponents? Anyone here in opposition to LB945? Anyone in a neutral capacity? Seeing none, Senator Cavanaugh, you may close. And as you come to the seat, we do have three letters of support: one from Mary Sullivan at the National Association of Social Workers Nebraska Chapter; Shawn Renner, Media of Nebraska; and Robert Sanford, Nebraska Coalition To End Sexual and Domestic Violence.

CAVANAUGH: Thank you, Chairman Lathrop and the Judiciary Committee. And I thank you for your questions today. Obviously, the testing of sexual assault kits is a very important issue and a very complex issue. I just want to reiterate that the intention of this piece of legislation is to provide us as a legislative body and the public more information around the testing of these kits so that we can help move forward a-- effective policies in the future around sexual assault testing kits. I would direct you to the fiscal note, which is zero. This is a piece of legislation that is just requiring a report to our Legislature. And I'm happy to work with the committee to expand the scope to be all untested kits in the state. And I thank you for your time today.

LATHROP: I don't see any questions. Thanks, Senator. That will close our hearing on LB945 and bring us to LB975 and Senator Geist, who is on her way. How many people intend to testify on the next bill? Looks like three people. OK. Good afternoon. Welcome to the Judiciary Committee.

GEIST: Thank you. Thank you, Chairman Lathrop, and good afternoon, members of the Judiciary Committee. For the record, my name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t. I represent the 25th District in the Unicameral. I have introduced LB975 to update Nebraska statutes and

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ensure that the Department of Health and Human Services can comply with certain federal requirements. If DHHS does not meet these requirements, state programs could lose vital federal funding or face other penalties. One statute LB975 would update provides for immunity for good faith reports of child abuse and neglect. The statute was last amended in 2005 and as such does not include language that the state must have in order to receive certain federal funds pursuant to 2019 amendments to the Child Abuse Prevention and Treatment Act, or CAPTA. The Nebraska statute currently provides immunity from civil or criminal liability to persons who participate in reporting or investigating child abuse and neglect or in any resulting judicial proceedings. However, it does not expressly include protections for people who provide information or assistance, such as medical evaluations or consultations in such cases of alleged abuse and neglect as is required under the 2019 CAPTA amendments. Other statutes in LB975 would update, provide full reports of alleged adult and child abuse and neglect. These statutes originated at a time when the Department of Health and Human Services-- I'm sorry, when the Department of Health and the Department of Social Services were separate entities. There were restrictions on the sharing of information between them. These statutes currently prohibit Adult Protective Services and Child Protective Services' staff in the Division of Children and Family Services from sharing the names and addresses of persons who report alleged adult or child abuse and neglect with other DHHS personnel responsible for investigating abuse and neglect. This, in turn, precludes DHHS from investigating alleged abuse and neglect in certain Medicaid certified facilities, as federal law requires and in the manner that the Centers for Medicare and Medicaid Services prescribes when enforcing federal requirements. DHHS will explain the situation to you in more detail in the agency's testimony today. LB975 would also clarify that persons calling the APS/CPS hotline are not required to give their name and address. Only when reporting parties opt to give their name and address, can this information be shared within DHHS. Darrell Klein with DHHS will be testifying after me and he will be able to provide additional information and specifics. Thank you for your time and attention and I would be happy to take any questions.

LATHROP: Senator DeBoer.

DeBOER: Thank you, Senator Geist.

GEIST: Thank you. Yes.

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DeBOER: Senator Geist, does this change the requirements for anonymity or nonanonymity for anyone reporting child abuse?

GEIST: It does not change the requirement specifically, what it does is it actually put some of the requirements in statute. Currently if someone calls the hotline, for instance, they do not have to give their name. They can, but they don't have to. And so what we're doing is just putting in statute what is required.

DeBOER: I've gotten a lot of emails from folks that are concerned that this is taking away the need to have names associated with reports. Is that what's happening here?

GEIST: No, it's not. Actually, as I said, they're always-- it's fine for them to give their name. And if their name is given, that allows them to share between the agency or within the agency the name and address, but a name is not required.

DeBOER: Is there any protection in place for folks who have someone making false reports against them for child abuse, is there any sort of protection in place already?

GEIST: You know, I'm gonna defer that question--

DeBOER: Sure.

GEIST: --to someone coming up behind me.

DeBOER: OK, thank you.

GEIST: Thank you. Um-hum.

LATHROP: Senator Slama.

SLAMA: Thank you, Chairman Lathrop. Senator Geist, if we fail to adopt LB975 and update these statutes, how much do we have the-- how much money do we have the potential to lose in federal funding?

GEIST: It's around a half a million dollars.

SLAMA: OK. Thank you.

GEIST: So-- thank you. It's important we pass it.

LATHROP: Did HHS draft this?

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GEIST: Yes.

LATHROP: OK, then we'll ask them any more questions we may have about it.

GEIST: OK, yes, that'd be great.

LATHROP: OK. Are you going to stay to close?

GEIST: I will stick around.

LATHROP: OK. Thanks, Senator.

GEIST: Thank you.

LATHROP: Proponents may come forward.

DARRELL KLEIN: Good afternoon, Chairman Lathrop and members of the Judiciary Committee. I am Darrell Klein, D-a-r-r-e-l-l K-l-e-i-n, and I am the deputy director of the Division of Public Health and Licensure in, in that-- of the Department of Health and Human Services. And prior to that, I've, I've been a public health attorney for 29 years. So I'm here to testify in support of LB975, which would amend Nebraska statutes in order to comply with federal requirements. DHHS would like to thank, Senator Geist, for sponsoring the bill. Some of the federal requirements pertain to investigations of alleged child and adult abuse and neglect. And for example, Nebraska statutes designate the Division of Public Health as the survey and certification agency for Medicare and Medicaid programs. And as such, the Licensure Unit within Public Health is required by federal law to investigate alleged abuse and neglect in Medicaid, Medicare certified facilities, such as nursing homes. At present, the licensure unit cannot always investigate such allegations in the manner that the Centers for Medicare and Medicaid Services prescribe if the report comes to the Adult Protective Services, APS, or Child Protective Services, CPS, hotline. This is because Nebraska statutes permit APS and CPS staff to share information about the report within DHHS, but bar them from sharing the reporting parties' name and address when voluntarily give-- voluntarily given to the hotline number. LB975 would change this permitting the reporting party's name and address to be shared within the agency for lawful purposes as well as with county attorneys. That's the public health side. Other federal requirements pertain to immunity from civil and criminal liability for persons who provide information or assistance in cases of alleged child abuse and

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neglect, but are not themselves the reporting party. The federal government amended the Child Abuse Prevention and Treatment Act in 2019-- I think that might have 2018, to require that states incorporate specific language in their immunity statutes in order to receive federal funding. The Nebraska statute currently contains some of the required language, but does not expressly include protections for persons who provide information or assistance, such as medical evaluations or consultations, in cases of alleged abuse and neglect and LB96-- 975 would adopt this language. Disregard the number in the printed copy. Nebraska risks losing about \$560,000 in CAPTA state grant funding each fiscal year until it amends its statutes to incorporate the federally required language. We respectfully request that the committee support LB975 and move it to the floor for full debate. Thank you for the opportunity to testify and I will answer any questions on the public health side and to the best of my ability on the CAPTA part as well.

LATHROP: Senator DeBoer.

DeBOER: Does this bill, LB975, do anything beyond what is required to put us in line with the federal legislation?

DARRELL KLEIN: I've looked at the federal legislation and I've looked at the bill and, no, it, it doesn't go above and beyond.

DeBOER: Does it do anything that would change the Department's reporting requirements?

DARRELL KLEIN: For the CAPTA part or for the APS to public health? It would, it would allow-- I'll go to the public health part briefly. CMS found that the agency as a whole-- part of the agency, which would be the APS part of CFS, was getting some information, namely in almost all the cases-- in 93 percent of the cases, people do report their name and address. And then that part-- that small part of the abuse report did not go to our Licensure Unit investigations for going into long-term care facilities and CMS determined that if one part of the agency had that information that the survey and certification branch needed to have it as well. And what basically happens is without, without the name and address of the complaining person, that person can frequently be the only witness, and it's difficult to really get a full understanding of what happened if you don't have that person. As far as on the other side for the, for the CAPTA part, I believe that the-- it doesn't really pertain to reporting, it's just clarifying

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that these additional folks are also immune for their roles in doing assessments in connection with such an investigation.

DeBOER: And how would you-- I-- I've gotten a number of emails on this, so how should I respond to folks who are worried that this is gonna lead to an uptick in anonymous reports of, of child abuse that is done sort of to get back at somebody or to-- something like that?

DARRELL KLEIN: The, the language-- I'm, I'm, I'm gonna be a little looser here than I would like to be as a lawyer. But in, in essence, what it says is the immunity does not apply for malicious reports. So-- and I think in one instance, it's, it's in good faith. So it, it could conceivably lead to an uptick, but the safeguard is if, if we do the follow up and we determine that there's nothing behind it, then the folks who were the subject of the complaint won't be affected. Might, might give us a little more work, but it shouldn't have a negative impact. So only the, the immunity for these things is only if it's done in good faith and isn't malicious. So if somebody's trying to get back at somebody else by falsifying information, I think that would fall into the malicious category.

DeBOER: And do you know to your knowledge, do we now require at any point someone who's giving testimony or evidence or something about child abuse-- sorry, calling into the hotline and giving-- calling in and saying, hey, check this out, do we require them now to give their name?

DARRELL KLEIN: The-- what the statute says is that they are to give their name and address. But if they don't give their name and address, we don't hang up on them. So it's, it's kind of a mixed response. The reality is about 7 percent of the contacts we receive come in anonymously. And in the event that that happens, we go ahead and take what information we can, and we go ahead and, and do what we can with it.

DeBOER: OK.

DARRELL KLEIN: I-- that's-- it's not a cut and dry answer, but that's reality.

DeBOER: Yeah, that's helpful. Thank you.

DARRELL KLEIN: Um-hum.

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LATHROP: Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Mr. Klein, for coming today. This deals primarily with child abuse and elder abuse. Is that right?

DARRELL KLEIN: Yes.

BRANDT: On page 4-- do you have the bill in front of you?

DARRELL KLEIN: I do.

BRANDT: Page 4, lines 22 to 26, you've gone to great lengths in this bill to help anonymous reporting of abuse. But it seems sort of counterintuitive, particularly on line 25 where it says, "the county attorney's office may request and receive the name and address of the person making the report." And if that person making the report is one of the 7 percent who called anonymously, how can you fulfill that section of the law?

DARRELL KLEIN: Can you give me the number again-- or the page number, Senator?

BRANDT: Page 4.

DARRELL KLEIN: Page 4.

BRANDT: And it is line number 25.

DARRELL KLEIN: OK, and that's current law.

BRANDT: Right. Yeah.

DARRELL KLEIN: Yeah.

BRANDT: But current law, you cannot report anonymously, and so this is--

DARRELL KLEIN: Well, the, the county attorney is, is able to go ahead and request that right now. And so when we do have the name and, and the address, we'll provide that information. If we don't have it, you're right, we can't provide it. But there is some work that we can do even with-- even if we don't know who the complainant is, there may be enough other information that we can do a follow up and fulfill the rest of our statutory duties.

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BRANDT: OK, and I guess the last thing is you talked about malicious reporting.

DARRELL KLEIN: Um-hum.

BRANDT: And what would be the remedy for that because this person responded anonymously so there is no downside, there's no misdemeanor, there's no felony--

DARRELL KLEIN: Yeah.

BRANDT: --using what Senator DeBoer had indicated about somebody has, has got an ax to grind with this individual and I'm just gonna call the hotline and say they're abusing their children and HHS shows up and, and a lot of bad things can happen.

DARRELL KLEIN: Yeah, I, I understand what you're saying there. The-- if, if there is-- the fact that they're not immune from a malicious report, it would make it more difficult to determine who filed the malicious report. But I would think that the-- one of the ways that you would determine a report was malicious would be first to establish that the facts in the report were not as alleged. And then the second part of determining malice would go to determining what their motive would have been. But as far as a potential victim of a groundless allegation, I think that first step protects them in that we'd be determining whether the, the facts were as alleged. I, I understand your concern. I think there's at least-- there are two public policies involved in protecting folks who report, giving them anonymity and, and then the counter side of, of trying to be able to fully investigate everything. And it's a not uncommon-- I, I think the majority of the states, more than 30 allow anonymous reporting. And the concept there is to better to have more information than perhaps as complete information as possible. So it, it is, in fact-- I'll acknowledge that it's, it's which public policy do you want to promote? And yeah, it's 30 states do not require the name to be reported, an additional seven require it only in certain circumstances.

BRANDT: All right. Thank you.

DARRELL KLEIN: Um-hum.

LATHROP: I got a few questions for you.

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DARRELL KLEIN: Yes, sir.

LATHROP: What federal law requires this? You just got done telling us that 30 states allow for anonymous complaints.

DARRELL KLEIN: Um-hum.

LATHROP: And if, if they're like us and they're about to lose a half of-- how much, how much funding, \$400 million?

DARRELL KLEIN: It's, it's about \$560-- \$560,000 for us, but that--

LATHROP: Oh, half a million.

DARRELL KLEIN: Yeah.

LATHROP: OK.

DARRELL KLEIN: That part, the CAPTA part is, is only tied to expressly granting immunity to like people who do a medical assessment.

LATHROP: OK, what statutory-- federal statutory provision requires that?

DARRELL KLEIN: For-- oh, OK, the CAPTA?

LATHROP: Yeah.

DARRELL KLEIN: Hold on.

LATHROP: And do they dictate the language?

DARRELL KLEIN: They apparently do. This is the CFS part. I believe it's at-- it's 42 U.S.C. 5106a. That's the-- and, and-- again, I'm not the CFS side and I wasn't a practicing attorney for CFS, but I believe that's the citation.

LATHROP: To the code or to the code of federal regulations?

DARRELL KLEIN: This, this looks like it's to the code.

LATHROP: So 42 U.S.C. 5106a?

DARRELL KLEIN: Um-hum.

LATHROP: All right.

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DARRELL KLEIN: And it looks like it's a-- well, I can get you a little-- I can dig down in--

LATHROP: I would appreciate that. Here's my concern, I look at the immunity--

DARRELL KLEIN: Um-hum.

LATHROP: --and it says, "Immunity from civil or criminal liability shall extend to any person providing information or assistance,"-- probably don't have a problem yet, "including a medical evaluation or consultation, in connection with an investigation, a report, or a judicial proceeding." So what if the doctor is doing an evaluation and does something he shouldn't do during the middle of an evaluation of a juvenile?

DARRELL KLEIN: So if you're, if you're-- I understand one of the questions that's been posed is if-- does somebody get immunity, if they report their own bad conduct? And is that what you're asking, Senator?

LATHROP: No, I'm not worried about that.

DARRELL KLEIN: OK.

LATHROP: No, I'm worried about-- let's say that we, we have a child, we pick the child up, we take the child to the doctor and in the middle of doing an assessment of the child, the doctor does something that would be against the law or give rise to a civil cause of action. Let's say it's a 15-year-old girl with a broken arm and he has her take her clothes off in the exam room.

DARRELL KLEIN: Yeah, this would not apply.

LATHROP: OK. Well, it applies to anybody who participates in a medical evaluation in connection with an investigation.

DARRELL KLEIN: I think what we would do there is-- first off, there's, there's a potential to maybe address this issue through an amendment. But I don't know how the ACF would--

LATHROP: That's why I asked if the language was prescribed or if you guys read something that says you need some immunity and then made up your own language.

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DARRELL KLEIN: No, and, and if you look at the federal code, the language, it doesn't track exactly, because the federal statute is directory and I could read it for you. But my answer to your question--

LATHROP: As long as you can get it to me so I can look at--

DARRELL KLEIN: Yeah.

LATHROP: --what it, what it prescribes when we can--

DARRELL KLEIN: It's not verbatim, but it's, it's very close. And, and on the other point, I think that what we would do right now is apply general rules of statutory construction and look to the laws and regulations about medical practitioners, unprofessional conduct, and--

LATHROP: Well, I just want to make sure that the immunity is tight. If it's prescribed by federal law and we have to do it, it's, it's going to be what the federal law requires and, and not turn into broad immunity for anybody that's involved in an, in an investigation. Fair enough?

DARRELL KLEIN: Totally, understand.

LATHROP: What's the policy behind having all these people call anonymously? As Senator DeBoer said the emails are coming in. I have letters of opposition that have come in and here's the concern, nosy neighbor keeps calling and saying, you know what, it doesn't look like Lathrop's taking care of his kids. And pretty soon, Child Protective Services is over there or they're pulling my kids out of class to ask them if they're being fed or what's going on at home. And all of this has taken place as a consequence of somebody that doesn't want to leave their name or phone number or any identification.

DARRELL KLEIN: Yeah, I think the-- and I believe the drafting of this particular bill was intended to reflect more or less reality today in that we do accept anonymous complaints and we do follow up on them today in-- on the interests of, of looking out for the-- either the child or the adult who's allegedly been abused. The broader public policy behind that is to get more information from folks who might otherwise not give it to us because they didn't want their identity to be known. It is-- admittedly it's a trade off.

LATHROP: Is that also required under the same statute?

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DARRELL KLEIN: CAPTA?

LATHROP: Yeah.

DARRELL KLEIN: No, CAPTA, CAPTA is--

LATHROP: Why are we putting it in here? Which, which part of this is standing between us and \$500,000 worth of federal money?

DARRELL KLEIN: The immunity for the evaluators. And then on the, on the CMS side, we do need to get-- sorry, on the public health side, what CMS wants is to be sure that public health investigators get the name and address when the Department has received it. I think the, the policy here is reflect what we're currently doing. I don't think that provision, if it isn't included in the bill, would impact either the CAPTA funds or the CMS funds.

LATHROP: Just the immunity that we see on page 6.

DARRELL KLEIN: Immunity is CAPTA and allowing the sharing from CPS/APS to public health is CMS.

LATHROP: OK. So just because we want to be precise with what we testify to, the immunity is required in the federal law. And you'll get me that statute?

DARRELL KLEIN: Yes.

LATHROP: And any code of federal regulation promulgated pursuant to that statute--

DARRELL KLEIN: Absolutely.

LATHROP: --and any other statute that necessitates any language in this bill.

DARRELL KLEIN: And I think we already set the CFR provision on the abuse reporting, which is the CMS public health citing to counsel.

LATHROP: I'll ask you to share that with Mr. Henningsen.

DARRELL KLEIN: Yeah.

LATHROP: OK. Any other questions? Senator Chambers.

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CHAMBERS: When you have to make a state law conform to a federal law, does that mean you have to use the exact same language and transport it from the federal right into the state law?

DARRELL KLEIN: Sometimes. In this instance, the federal law, as I read it, is, is directory. So if we took it verbatim, it wouldn't make any sense because what it says is provisions for immunity from civil or criminal liability under state and local laws and regulations, and then it goes on. So it's requiring-- the federal law for CAPTA pertains to the grant. So it is setting a requirement that has to be met by the state for the grant. So you can't quite take it verbatim, but we covered the points and principles there. And I didn't participate, but it's my understanding that our existing law, which gives some immunity, was known and apparently found wanting by the federal grantor. And so this bill contains the solution to make them happy. So this isn't verbatim, but it does cover each point.

CHAMBERS: When you take something from federal law and bring it into state law, has that federal language ever been construed by a court? And if so, would you be aware of it?

DARRELL KLEIN: I am not aware of anything in CAPTA. There are instances where-- for instance, on the survey and certification side, where there are court decisions that maybe are different from what CMS thought their law said that the courts can construe those. So, so yes, yes, broadly. On the CAPTA level for the requirements of the grant, I am unaware. I, I assume it's possible.

CHAMBERS: OK, and I'm just trying to get an understanding. If there had been construction of some federal language, and in that particular realm, you are required to bring that federal notion language or however you want to declare it because it may not necessarily be verbatim into the state statute, do the people at the state level check to see if there has been any court instruction of that language to assist in deciding what would go into the state law?

DARRELL KLEIN: Yes. Yes. Would we be foolproof and, and catch everything? I can't promise that. But the, the lawyers in support of CFS have, have been participating in this. This particular language is a relatively recent change and it pertains to grant eligibility. So it's a little bit like one step removed when it's setting grant requirements from a law that would automatically apply to everyone, which makes a court construction that much less likely.

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CHAMBERS: And now we're getting close to what I really wanted to ask, but I was trying to lead up to it. Suppose that federal language were challenged somewhere, and in that federal-- in that challenge, a court construed that language in such a way that no longer would it stand the way it's written. Would the state be made aware of that, or does the state have to keep track of how this language is dealt with by any court?

DARRELL KLEIN: I can-- I, I can't speak to CFS's relationship with, with, with the Administration for Families and Children [SIC]. But from a CMS perspective, there are bulletins put out. There are constant phone calls and we would be made aware of it.

CHAMBERS: OK. I just wanted to be sure that we wouldn't have language in the state statute, which at the time it was put there was all right. But now there may have been some changes because of court rules. So that's what I was trying to get at.

DARRELL KLEIN: I, I understand.

CHAMBERS: You, you answered it for me. Thank you.

LATHROP: All right. I don't see any other questions, Mr. Klein, thanks for being here today.

DARRELL KLEIN: Thank you. Thank you very much.

LATHROP: Next proponent. Anyone else here in support of this bill? Seeing no proponents-- or additional proponents, anyone here in opposition? Good afternoon.

DAVID LOSTROH: Good afternoon. Senator Lathrop, members of the Judiciary Committee, my name is David Lostroh, spelled D-a-v-i-d L-o-s-t-r-o-h. I serve as board member and legislative liaison for the Nebraska Christian Home Educators Association. The NCHEA opposes LB975 as written. And while LB975 is not a homeschool issue, it is a serious family issue for every family, including homeschool family. LB975 would eliminate the existing requirement for persons making phone calls of child abuse or neglect to provide their name and address, thus, encouraging accusers to remain anonymous. Currently, it does require it. Child abuse and neglect is a terrible thing, but LB975 will only waste the time of state agencies potentially creating needless hardship for innocent families. The LB975 anonymity requirements are unnecessary because statement of intent discussion of

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federal law requirement does not include anonymous reporting of child abuse or neglect. Also attached, I provided a letter from-- or testimony, written testimony from Home School Legal Defense Association attorney there for the state of Nebraska, and they have checked out CAPTA and also state that there is no federal requirement for anonymity to be added as it is in this bill. So this, this is something outside requirements, 28-719, already provides for the confidentiality of the person making the report, 28-716 also provides immunity. If that-- if immunity is expanded as need be, we don't have a problem with that. It's the anonymity that is the problem. It'll just make it easier, even easier to report a false claim of child abuse or neglect because an anonymous, malicious accuser will not have to fear any potential liabilities, civil or criminal, as a result of maliciously filing a false report in violation of 28-716 because no one knows the identity of the person who made the call. No one can call back asking for more details or explanation of contradictions or dealing with this person that's subsequently been determinative filed a malicious report. The implication of LB975 to Health and Human Services will be that the Department must follow up on anonymous reports. Perhaps nearly all new reports will become anonymous if this bill goes into effect. The Nebraska HHS will receive more reports than ever, I believe, flooding an already overburdened department, making them less able to take appropriate action on bona fide child abuse. In order to get something done, overworked DHHS workers may feel pressed to force warrantless searches, absent consent or exigency, and stemming from anonymous phone reports. Unfounded, warrantless searches against innocent families result in much trauma to the parents and even worse, trauma to the children. Anonymous reports are notoriously unreliable. The Nebraska DHHS annual data year, calendar year 2017 report reveals that only 6 percent of all reports are substantiated. And among those that are anonymous, it's under 4 percent. And if this goes through, it's just, it's just bad. So we would-- I might add on the back of my testimony to you, you can see quotations from the Fifth-- excuse me, a Ninth Circuit thing about anonymous reporting and warrantless searches where the Fourth Amendment still applies. So we encourage you to remove the anonymity requirements or kill the bill.

LATHROP: OK.

DAVID LOSTROH: We don't have any problem with the immunity parts.

LATHROP: OK. Let's see if anybody has any questions for you? Senator Chambers.

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CHAMBERS: Are you contending that the federal requirement does not require that anonymous callers--

DAVID LOSTROH: Yes, that's, that's right. The letter you have from Dan Beasley from Home School Legal Defense, that organization was involved in the CAPTA development from the get go. And they say that anonymity is not part of that. And that's where our problem is, it's not required.

CHAMBERS: OK, let me, let me phrase the question differently because I don't want the question that I'm asking to get-- require more than is necessary to get what I'm looking for. Is it your understanding that HHS would be required to follow up on anonymous calls?

DAVID LOSTROH: I'm not commenting on that. I don't believe that they're required to follow up on anonymous calls right now. They're just doing it. But if we remove the requirement, which there's no requirement in the CAPTA that they have-- that we have to change from taking names and addresses to being anonymous. That's the point I'm making here.

CHAMBERS: OK. Well, let me see if I'm getting your point. You think that if a call is anonymous, it should be disregarded or that all anonymous calls should be followed up based on what they contain. Which are you saying?

DAVID LOSTROH: Well, I'm saying that a person that won't give their name and address in my mind automatically is a lower type of input because this person is afraid to even own up to any responsibility whatsoever. And it turns out that some of these reports are substantiated, 3.9 percent back in 2017. But my concern is that, you know, there's-- there are some people who don't like home education and that they've filed reports that are false and the family gets to, to be investigated, oftentimes warrantless searches. And, and they're being forced to do them--

CHAMBERS: Let me ask the question this way.

DAVID LOSTROH: --and that's what the problem is, this is just gonna add to that.

CHAMBERS: If a call is made and the caller does not want to give his or her identity, do you think that call should be disregarded?

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DAVID LOSTROH: I think that if, if a call has any semblance of credibility where it can be followed up without doing warrantless searches, go ahead and do it. And if it has any credibility and you can get a warrant from a judge, then let's, let's have at it. We're not here to defend people who are doing child abuse to their children. But it's the other end of the thing, the other side of the scale is what the concern is here. Department people coming in, checking out people who aren't doing anything wrong based on an anonymous call, that's where the rub is.

CHAMBERS: So how would you say the issue that you are describing-- whatever you're saying and whatever you mean, and I may be misunderstanding it, what are you saying ought to be done in the situation that you're discussing that you have concern about?

DAVID LOSTROH: Well, let me, let me say this, I would, I would certainly continue to urge that the anonymity part be re-- not be removed out of the bill. But to then answer your question, if an anonymous call is made and it's accepted in, in apparent violation of what the law requires right now, if indeed it can be followed up without having to do a warrantless search on a family, you know, from other factors and so on, then, all right. But a warrantless search where the family is subject to an inspection without any other evidence other than anonymous phone call, I think is clearly a violation of the Fourth Amendment. And the case on the back of that testimony that I have, the Ninth Circuit said not allowed. And that's, that's where I'm coming from. I don't want to protect people who are actually abusing their children, but let's not abuse innocent families either.

CHAMBERS: I, I won't pursue it.

LATHROP: OK. I don't think there's any other questions. Thanks for being here today.

DAVID LOSTROH: Thank you.

LATHROP: Next opponent.

RANDI SCOTT: Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Randi Scott, R-a-n-d-i S-c-o-t-t, and I am testifying on behalf of the Nebraska Association of Trial Attorneys in opposition to LB975, specifically to the immunity provision. We generally advocate against immunities as it, it seems

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they give allowances for people to act in an unreasonable manner. We would prefer the standard to be that a person act in a reasonable manner upon reasonable belief having reasonable cause. We have spoken with Senator Geist about our concerns and hopefully we can look further into the federal language, see if there's something that we can do, some movement that we can have there. Thank you for your time. I'd be willing to answer any questions.

LATHROP: I don't see any questions. Thanks for being here.

RANDI SCOTT: Thank you.

LATHROP: Anyone else here to testify in opposition to LB975? Anyone in a neutral capacity? Seeing none, Senator Geist, to close. We do have eleven letters in opposition and they appear to come not from groups, but from individuals across the state who have expressed concerns of their part of the record.

GEIST: And I'm guessing that that concern is similar to what David Lostroh was expressing from what I hear.

LATHROP: That might have been where they came from. Right. It's hard to tell, but there are a number of them.

GEIST: Right. And, and I understand that. And what I would say is that, again, this doesn't change the practice that's already in place. And remember, 7 percent of those are anonymous, 93 percent are not, 93 percent do give their name and address. And in order to comply with the federal guidelines, we need this bill to pass. So I am also happy to work with, with Randi. We had, had some discussions and we are open to finding some language that tightens up that immunity. So it makes it more clear that the individual in, in question needs to be acting in a reasonable manner, and so I'm happy to do that. And with that, I'll take any questions. Thank you.

LATHROP: It sounds to me, Senator, like the requirement of anonymity-- right now, the Department is investigating anonymous complaints, but it's not in statute and it's not necessary to put it into statute to get the federal grant. Is that your understanding, too?

GEIST: That, that is my understanding.

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LATHROP: I think that's what I heard Mr. Klein testify to. The immunity language however is and whether it's too broad or as, as required by federal statute we can work with them.

GEIST: Correct, we can tighten that.

LATHROP: OK. Any questions for Senator Geist? I see none. Thanks for being here.

GEIST: OK. Thank you.

LATHROP: That'll close our hearing on LB975 and bring us to Senator Blood and LB745. Senator Blood, welcome.

BLOOD: Thank you, Chairperson Lathrop, and good afternoon to the entire committee and thank you for allowing me back to your committee once again to present LB745 today. My name is Senator Carol Blood, that is spelled C-a-r-o-l B as in boy l-o-o-d as in dog, and I represent western Bellevue and southeastern Papillion, Nebraska. As I'm sure you are all aware, individuals who have been victims of violent criminal activity, such as trafficking, domestic violence, or sexual assault and who are cooperating with law enforcement by providing knowledge of the crime may be eligible for a T or U visa. Victims are required to have a certification signed by local law enforcement, prosecutors, or another certifying official stating that they are a victim of a qualifying crime and are cooperating with the detection, investigation, prosecution, or conviction of the criminal activity in order to have their full visa applications reviewed by federal immigration officials. This bill only deals with local certification requests and not approval or denial of the full visa application. These certifications speak specifically to the nature of the crime of victimhood and victims' helpfulness and provide law enforcement a tool to incentivize crime reporting and victim cooperation. I want to be very clear that local certifications do not represent an endorsement of visa approval. This is the sole prerogative of federal immigration officials. In a July 2019 survey of Nebraska legal advocates on 41 unique T, U visa cases, 100 percent of victims were deemed helpful in the investigation of a qualifying crime, 65.9 percent of victims contributed to a prosecution. Now it's clear that these victims demonstrate a benefit to law enforcement and their detection and investigation of violent crimes. Without this tool, many of these victims would not feel comfortable coming forward to report the crimes against them. This bill is a matter of promoting public safety and holding bad guys who often fall under the radar

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accountable for their criminal actions. Now although there is a federal process in Nebraska, there is no uniform practice-- excuse me, uniform practice of this process. There are also local certifying agencies that do not utilize the law enforcement tools available to them under this policy. In a 2018 survey of 109 local law enforcement agencies, 74 percent have never heard of or ever used this tool available to them. This bill allows agencies to establish uniform policies consistent across the state, increase awareness of this tool, and most importantly promote public safety. It also helps to cater to Nebraska's unique needs that can't always be addressed in the federal process. This will not create more work for law enforcement agencies, many of which are already short staffed, underfunded or both. This bill helps to clarify the role of law enforcement while streamlining the process. Having a victim's cooperation will increase efficiency and success when it comes to investigations for Nebraska's law enforcement. Lastly, for those of you who feel an individual may use this process in a fraudulent manner should they be seeking immigration status but aren't actually victims, I would like to remind all of you that beyond the law enforcement certification, the USCIS review of each application is actually very extensive. Only 10,000 U visas and 5,000 T visas may even be awarded annually. This means that they are awarded after careful consideration and this bill in no way alters that extensive federal process. In November, we met with a large section of law enforcement and county attorneys, as well as nonprofits and other organizations that help victims of violence and trafficking. You will note that this bill is written in a very simple manner, as what we are trying to do is really quite simple. We are helping codify in state statute existing federal guidance around the local certification process of this law enforcement tool to encourage a more uniform practice throughout Nebraska. Now other states have already adopted similar legislation to streamline their processes with much success around the existing federal guidelines. With that, I ask for your support and request that you please vote this out of committee so we can debate the issue on the floor for all Nebraskans. And I would be happy to answer any of your questions that you might have at this time. But for the sake of your valuable time, know that we also have experts who are here to testify as well that may very well answer any questions you may have on this topic. And I do plan on staying for the closing as well, Chairman.

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LATHROP: OK. I do not see any questions at this time. We will take proponent testimony. How many people intend to testify in this bill? One, two, three, four, five. Good afternoon.

CARLY BEUSCH: Good afternoon. My name is Carly Beusch, C-a-r-l-y B-e-u-s-c-h. I'm here today in support of LB745. I'm an attorney with the Nebraska Coalition to End Sexual and Domestic Violence, and I've been representing victims of domestic violence, sexual assault-- excuse me, stalking, and human trafficking for the last eight years in their applications for humanitarian relief before the United States Citizenship and Immigration Services, USCIS. These visas were created with a dual purpose: one, to serve as a tool for law enforcement and prosecutors as a means to keep their community safe; and two, to encourage immigrant victims to report crimes by affording them protections. Anecdotal evidence that indicates that when law enforcement and prosecutors utilize these, they build trust with their immigrant communities, which encourages the reporting of violent crime that would otherwise go undetected. Ultimately, this makes the whole community safer. In order to file for a U visa, a victim must first obtain a signed certification from law enforcement or a prosecutor that they were a victim of a violent crime, that they were helpful or current-- that they were helpful or currently being helpful, or are likely to be helpful in the future in the investigation or prosecution of the crime. For a T visa, a certification isn't required, but it's highly encouraged. Whether or not a crime is investigated and prosecuted is solely within the discretion of law enforcement and prosecutors, so a victim's level of helpfulness can range from calling 911 in crimes which aren't charged to testifying on behalf of the prosecution. Under federal law, the signing of a certification is discretionary. That means whether or not a victim will be able to obtain a signed certification is dependent on whether the particular law enforcement or prosecutor will sign. Currently, there is no consistency with how agencies respond to these certification requests. This means that victims with similar victimization and levels of helpfulness can experience drastically different outcomes. LB745 does not mandate that law enforcement and prosecutors sign every certification. What it does require is that all victims, regardless of which agency has jurisdiction, receive equal consideration and treatment. Several states, as Senator Blood mentioned, have enacted laws addressing the same issue and several more have them-- have pending bills before their legislatures because many jurisdictions are experiencing these same issues. Much of the opposition to this bill is due to a misunderstanding of the role of the criminal justice system

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and how they-- and the role they play in this process. Law enforcement does not grant any immigration status by signing certifications. USCIS is the sole adjudicator and that is after an extensive and long process. You-- that said, law enforcement and prosecutors are the gatekeepers in that without a signed certification, victims cannot file for relief. That's why this bill is necessary. I've prepared a more detailed letter of support along with some supporting information that explains the process in more depth, as well as a national survey, along with a copy of some case, case summaries from my own practice. I would take questions-- be happy to take questions at this time.

LATHROP: OK, see if there are any. Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming, Ms. Beusch. How are agencies repor-- responding to this now? Do you some examples or--

CARLY BEUSCH: You know, it is, it is-- there are widely different responses. I have some agencies which will respond to a written request within two to three weeks. And that's with a yes or a no. You know, whether or not they'll sign it. Some agencies I will send a, a request and I will not ever get a response so I will follow up with a phone call. Sometimes they'll talk to me, sometimes they won't. I've been told on many occasions we don't do immigration. And that's not what the U visa certification process is meant to be. It, it is merely certifying that that particular individual was helpful in that particular investigation and prosecution.

PANSING BROOKS: OK. Well, is that sort of the realm of problems you are having in responses or do you have additional issues?

CARLY BEUSCH: I-- there are certain agencies which will only sign for active cases, which means that if a person, you know, request it after the prosecution is over, they're out of luck even if the prosecution was just recently over. There are agencies which just have a blanket policy. And then there are agencies that, you know, will, will talk to you, but just-- you know, one in particular sticks in my mind, they would only sign a certification if the victim was hospitalized. So there's-- it's-- there's just so many wildly drastic, different, you know, ways that the different agencies respond.

PANSING BROOKS: OK, thank you very much.

LATHROP: Senator Morfeld.

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MORFELD: Thank you for coming day. And I think maybe you've answered this question a little bit through Senator Pansing Brooks's question, but have you tried to address this challenge outside of legislation through training or something like that?

CARLY BEUSCH: Thank you for asking that. The Nebraska Coalition on Sexual and Domestic Violence has partnered for the last approximately six years with the Nebraska State Patrol and the Nebraska County Attorneys Association to bring trainers in to discuss the barriers facing immigrant victims. Not just with regards, you know, to U and T visas, but you know, other issues as well, but U and T visa certifications and that process as well. Trainers have included Department of Homeland Security staff, law enforcement agent-- agencies that have been using the U and T visa certification process for tools in their own locations, multiple national immigration and battered and-- excuse me, battered immigrant advocacy groups. And you know, so far we still see-- I mean, wildly different results from-- in responses from different agencies.

MORFELD: OK, that's good to know. Thank you.

LATHROP: I see no other questions. Thank you for being here today.

CARLY BEUSCH: Thank you.

LATHROP: Appreciate your testimony. Any other proponents? Good afternoon.

KELSEY WALDRON: Good afternoon, Chairperson Lathrop, members of committee. My name is Kelsey Waldron, K-e-l-s-e-y W-a-l-d-r-o-n, and I'm in the policy and research associate for the Women's Fund of Omaha. We're passing around our testimony in support as well as that of Immigrant Legal Center and Douglas County Sheriff Dunning, who wanted to be here but unfortunately was unavailable. You'll hear other testimony, I just wanted to add a quick note. As we've drafted this legislation, we worked very hard to make sure that this process is not onerous for law enforcement agencies. We've made several changes to the bill and we are very open to continuing that conversation. We're also happy to work with Senator Blood to address the portion of the bill that has created a fiscal note. Fundamentally, our goal of this legislation is to ensure that law enforcement agencies know how to respond to the requests they receive and do so efficiently and so that victims understand the process and are comfortable coming forward to work with law enforcement. We're happy to adjust the specifics of the

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process, but we believe there must be a process. I'd be happy to answer any questions. Thank you.

LATHROP: Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. There was no fiscal note, was there?

PANSING BROOKS: I thought you asked for it.

BRANDT: No, no, I-- our books didn't show any fiscal note.

KELSEY WALDRON: Sure there was, there was one note from Douglas County for \$10,000--

BRANDT: OK.

KELSEY WALDRON: --that pertains to-- we believe that pertains to the portion where we ask them to maintain internal records--

BRANDT: OK.

KELSEY WALDRON: --of the requests received.

BRANDT: And then how many other states do this?

KELSEY WALDRON: Many other states do this. I believe, I believe there are-- I don't wanna misquote you, but I believe there are 12 that have already passed legislation. I can follow up with the exact number. Among them, North Dakota and Montana have already passed this. That was what their bills originally inspired, the language of this bill. But I can follow up with the exact number of how many.

BRANDT: All right. Thank you.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: I had the same question. I didn't see a fiscal note so that's what--

LATHROP: Oh, OK. That looks like all the questions for you today. Thank you.

KELSEY WALDRON: Thank you.

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LATHROP: Good afternoon.

TIMOTHY NOERRLINGER: Good afternoon. Timothy Noerrlinger, T-i-m-o-t-h-y, Noerrlinger is, N-o-e-r-r-l-i-n-g-e-r. I am here on behalf of the Nebraska Criminal Defense Attorneys Association in support of the bill that's helping victims of crimes. But there is a reason for that, so. The bill in this case attempts to make uniform the ability to get T and U visas. I can tell you as a defense attorney, I've had a client that was eligible for this in Lincoln where I practice. The Lincoln Police Department has a streamlined process where you can contact their chief legal counsel. They get the information to the right individuals, they look at it, and then they make a determination as is required as to whether or not the information was useful and then sign off on it. As a former county attorney in Otoe County, where I was out in rural Nebraska, one of these came across my desk and I had no idea what the heck it was because I got it from a chief of police. So I had to figure out what a T and U, I think it was a U visa, request was and what am I supposed to do with it? So I would tell you at least maybe it's changed, but I quit being a prosecutor back in 2013, there was not much understanding of what I was supposed to do or what to properly respond to this was to satisfy the request. And so for a large part, we as an organization in the Defense Attorneys Association believe that this bill is appropriate to address that. And the reason that we support it is pursuant to Padilla v. Kentucky, which is a Supreme Court case found at 559 U.S. 356. Defense attorneys are supposed to advise their clients of potential immigration consequences if they are a victim of a crime or are trafficked. It provides a way that we can advise our clients appropriately how to gain or potentially seek legal status and also discharge or function as is required under the Sixth Amendment to counsel our clients with regard to things. And so with that, I'll take any questions anyone would have.

LATHROP: I do not see-- oh, Senator Slama.

SLAMA: Sorry, just a quick question. You peaked my interest with the mention of Otoe County so I appreciate that and I appreciate your work.

TIMOTHY NOERRLINGER: I'm still an Otoe County resident, so I'll be voting here.

SLAMA: Oh, oh, fun, but just--

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LATHROP: Did you just say, I'll be voting?

TIMOTHY NOERRLINGER: Voting, yes.

SLAMA: All right.

LATHROP: That's not how I would have started out my answer to this next question. [LAUGHTER]

SLAMA: In any case--

TIMOTHY NOERRLINGER: I apologize.

SLAMA: --regardless. So with your experience in rural Nebraska dealing with these T and U visas, do you think that attitude is shared across rural Nebraska, that when one of these comes across your desk, if you've never seen it before, there's a question of what do we do with it? How do we process it?

TIMOTHY NOERRLINGER: Yeah, I think that's pretty true. I-- because what you're dealing with is small police departments, small sheriff's offices that tend to get these and they don't-- the county sheriff doesn't have any idea what the heck they're supposed to do with it or the city police or the city police department. So in my experience, whenever there's a problem in small county government, what happens is it goes to the county attorney's office, whether it actually should go there or not, because they're the ones that are tasked with problem solving and just by terms of [INAUDIBLE]. So I--

SLAMA: And right now, there's no real state guidelines for if you're the county attorney for how to handle this.

TIMOTHY NOERRLINGER: That's-- it's true. And this, and this doesn't really provide a ton of guidelines, it just requires that there be some answer to it.

SLAMA: Yep.

TIMOTHY NOERRLINGER: But that is helpful for and-- well, for potential clients of mine and also for these agencies that get these requests because then at least, well, we've considered it as a statewide body and we are able to answer or at least get some guidance on how we're supposed to do this stuff and create some uniformity for a certain length of time.

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SLAMA: Fantastic. Thank you. Always good to have District 1 represented.

TIMOTHY NOERRLINGER: I'm glad to be a District 1 resident, been one for a long, long time, so.

LATHROP: Is that all you got to say?

TIMOTHY NOERRLINGER: That's all I got to say unless you got other questions, I'll keep talking.

LATHROP: All right. I don't see any other questions, but thanks for being here.

TIMOTHY NOERRLINGER: All right. Thank you.

LATHROP: Next proponent. Good afternoon.

TOM VENZOR: Good afternoon. Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Tom Venzor, that's T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. You're, you're gonna get my testimony, I'll probably skipping around a little bit in it just for the sake of time. But just wanted to mention that Pope Francis has spoken unambiguously when he speaks about human trafficking. He's referred to it as an atrocious scourge, an aberrant plague and an open wound on the body of contemporary society. And I think what we're realizing more and more here in Nebraska is that human trafficking is a reality that's affecting our most vulnerable in society, including women, children, the poor, and those with disabilities. But not only does it impact sort of those categories of folks, we know that it particularly affects our immigration population as well. And that's true for both U and T visas. In particular, the Conference, you know, obviously we represent, you know, the bishops, the Catholics across the state of Nebraska. We also represent sort of our institutional work, which includes our charitable services. And we have both Catholic Charities in Omaha and Catholic Social Services of southern Nebraska. And both of those organizations, both of those social service agencies do legal immigration work. And they, and they do interact with clients and sometimes represent clients who are seeking U and T visas. And in speaking with them, you know, they-- both agencies, without hesitation affirm that LB745 is a policy that would better serve their clients. Both recognize that the lack of uniform treatment across jurisdictions is, is problematic. And while they noted that, you know, there's a lot

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of law-- there's law enforcement agencies that do an excellent job responding to certification requests, there's other agencies where the response times are very divergent to the point that, you know, that they don't actually get responses at all. And we understand and you've already heard the workloads, you know, there could be good reasons for delayed, delayed response times and that kind of thing, but one concern we have is the, the excessive delay and also the total lack of response from some law enforcement agencies, you know, don't provide victims of human trafficking and violent crimes with sort of the welcome human warmth and possibility of new life that, that is owed to them. And as well, you know, sort of from a basic principle of immigration in Catholic social teaching that I think a lot of us would share is that a lot of these folks, they, they have the right to migrate and sustain their lives and the lives of their families. And so we think that's a fundamental principle that's at play as well. And I would just say, too, in our experience, from what I've understood, talking to our immigration reps as well as to some others, is it-- while I'm sure this isn't always the case, I know a lot of times that those immigration reps are, you know, they're willing to, you know, to fill out the certification paperwork, you know, to make that an even less onerous process for local law enforcement so that it's, you know, here's-- we're gonna fill in the blanks for you. And, you know, if you want to return it with some edits and that kind of thing. You know, they're willing to go sort of to, to those lengths to represent their clients. So again, I think as you've heard already, you know, we think that this is a very reasonable balance to ensure consistency and uniformity and not to be onerous on local law enforcement. So with that, we'd encourage your advancement of this legislation.

LATHROP: Very good. Any questions for Mr. Venzor? Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming, Mr. Venzor. I just wanted to just publicly thank the Catholic Conference for your work on trafficking there, but you, you have been integral to the changes we've made in this state and I wanted to thank you for that work.

TOM VENZOR: Yeah, and thank you for all your work as well.

LATHROP: OK. I don't see any other questions.

TOM VENZOR: All right, easy enough.

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LATHROP: Thanks.

TOM VENZOR: Thank you.

LATHROP: Any other proponents of-- yes.

ROSE GODINEZ: Good afternoon. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, pronouns she, her, hers, and I'm here to testify on behalf of the ACLU of Nebraska in favor of LB745, which similar to federal law as you've heard for U and T visa provides immigrant survivors of crime with some certainty that the report of the crime will keep them from any retaliation from the perpetrator or from deportation. Further, it recognizes that undocumented survivors are not likely to pursue civil or criminal claims against their perpetrators, compromising the integrity of our judicial system. This legislation comes at a particularly important, important time because many law enforcement agencies have noted the increasing anxiety amongst immigrant communities, rumors and confirmed actions of collaboration with ICE like the 287(g) program in Dakota County, the O'Neill raid that took place a couple of years ago, and warrant sheriff officer programs all contribute to this. As a result, the status of law enforcement and the immigrant relations has become strained across the country and the state. Moreover, several studies and my own immigration law experience in rural Nebraska has found that many certifying agencies, particularly for U visas are refusing to sign certifications based on standards that go beyond the scope of what Congress intended. Ultimately, were left up to a geography roulette or it depends on whether-- where the crime occurred on-- depends on where the crime occurred, whether you're going to get a certification or not despite their eligibility for a visa. For example, I had a case out of Grand Island where the lady had been a victim of domestic violence, so much to the point that her face was completely purple and we had evidence of it. We had pictures of it. I sent all of that to law enforcement and would follow up every couple of weeks asking if they would certify it and it kept getting ignored. And then to my luck, there was a change in law enforcement leadership and I resent the certification and then it was signed. Unfortunately, that law enforcement agency no longer signs certifications because of political reasons. This makes LB745 the more critical as we need to eradicate all obstacles to obtaining a T and U visa certification. We cannot leave human trafficking, domestic violence, or other immigrant survivors without protection. And for those reasons, we urge the committee to advance this bill to General File.

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LATHROP: OK. Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you for testifying today.

ROSE GODINEZ: Sure.

BRANDT: Through the testimony of what I've read, there seems to be a reluctance of law enforcement to certify these visas. Why is that?

ROSE GODINEZ: I believe there's a confusion as to what it is. And there hasn't been enough training on the U visa certification process, even though-- I used to practice for Immigrant Legal Center and we would try to set, set trainings across the state, but we just don't have enough capacity as a nonprofit at that time to do the trainings and let law enforcement know what this program is all about.

BRANDT: All right. Thank you.

ROSE GODINEZ: Yeah.

LATHROP: I see no other questions. Thanks for being here today.

ROSE GODINEZ: Thank you.

LATHROP: Any other proponents? Anyone here in opposition to LB745? Anyone here in a neutral capacity? Seeing none, Senator Blood, you may close. We do have letters. We have letters of support from: Schuyler Geery-Zink, at Nebraska Appleseed; Nicky Clark, at the Heartland Family Services; Michelle Devitt, at Heartland Family Services-- or pardon me, Heartland Family Workers [SIC]; Tim Dunning, Douglas County Sheriff; Sarah Hanify, National Association of Social Workers Nebraska Chapter; Amy Richardson, Women's Center for Advancement; Ivy Svoboda, Nebraska Alliance of Child Advocacy Centers. And two letters in opposition: one from Steve Hensel, Police Chiefs Association of Nebraska; and Terry Wagner, Lancaster County Sheriff and Nebraska Sheriffs' Association. Senator Blood.

BLOOD: Thank you, Chairman Lathrop. And I would like to add that I do believe our letters of opposition have since been more neutralized and we'd like the opportunity maybe outside of here to talk to you about it since you have such a long agenda. I, I want to tell you why I tackled this particular topic. As you know, because I have seven bills in your committee this year, public safety is a very big issue for me. And public safety is not just about protecting the public, but also giving law enforcement and those who work with law enforcement the

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tools that they need to, to truly be successful to prosecute bad guys and to protect the victims. The story that closed the deal on this bill for me was a true story of a victim who had been cooperating with law enforcement, who was allowed the benefit of this tool and told law enforcement about the bad guys who had also been involved with the victim who found out that law enforcement was undercover within their organization and were going to be murdered within a short period of time because they had been found out to be law enforcement undercover. And that's a very extreme story, but a true story that for me resonates why this is so important. It isn't about immigration. It's about making our communities safe and supporting our survivors so they can come forward to report crimes and making sure that our offenders are held accountable. A simple bill for a really good cause,--

LATHROP: OK.

BLOOD: --so I appreciate your time.

LATHROP: Very good. Thank you, Senator Blood, and I don't see any follow-up questions.

BLOOD: Thank you.

LATHROP: Thanks for being here this afternoon and have a great weekend. That will close our hearing on LB745 and bring us to Senator Matt Hansen and LB1007, or 1 double 07.

M. HANSEN: Thank you.

LATHROP: Why don't you give it just a second so that people stop moving around. How many people are going to testify on the next bill? Show a hands. Looks like a couple, two or three. All right, Senator Hansen, you may open.

M. HANSEN: Thank you, and good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Matt Hansen, for the record, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB1007, which is my latest attempt to address the longstanding problem of long wait times for the beds at the Lincoln Regional Center for pretrial detainees who have been ruled incompetent to stand trial, who are then forced to wait at the county jails with little or no treatment. The current law says that if a criminal defendant is found not competent to stand trial, but may be restored to competency, that the defendant is to be committed to a

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regional center or state hospital until they are restored to competency. With the passage of LB686, a committee priority of last year, another option allowing for outpatient contract facilities would go into effect in July of 2021. However, even with that option, I still worry that many pretrial detainees will find themselves incarcerated or institutionalized in some form for longer than they would had they simply plead guilty at their first appearance. That is simply unfair in my mind, and this bill is an attempt to solve that problem. I will say, I will say, and we're going to deviate here a little bit. This draft, as I've currently presented, would allow for individual who faces charges classified as Class IV felonies or lesser offense, for those charges to be dismissed if the defendant is found not competent and it is recognized that the processes take longer for the competency restoration than the criminal proceedings. I had showed copies of this bill, this proposal to the county attorneys prior to the start of the legislative session and we'd gone over some drafts. We hadn't come to any understanding, so we agreed that I would introduce LB1007 and continue talking. This afternoon, we had a very productive conversation and I believe we have a tentative agreement, which we didn't have time to write up and present to the committee, that does three things, three main things. It's going to keep language clarifying that competency can be raised at any point during the trial. That includes situations that an individual's mental capacity does not always maintain the way through the trial, and we occasionally have situations where someone's competency devolves. That's currently on page 2, line 3 of the bill. It would change the time period for courts to review the competency restoration from 60 days from the date the restoration is ordered to-- and, and then every 60 days thereafter. In the current bill, you'd see it on page 3 lines, 15-22. It starts at every six months and then every six months thereafter. That's simply too long. So individuals are going six months without ever having a chance to be put in front of a judge, six months without talking to their attorney, six months without being in front of court. And everybody seemed to agree that every 60 days was a good check-in point and mirrors some other states. And it would also add some new language for an expedited hearing following a determination by DHHS that a person is competent. Because that's one thing we're seeing, is we send people to the regional center, they become competent, therefore they can stand trial. And they still wait for several weeks as a healthy, competent individual at the regional center before they get an opportunity to get transferred back into court and have their hearing. I'm happy to work together on those three changes. I believe that addresses the concerns of the county

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party-- sorry, County Attorneys Association and still retains the support of the county, the Defense Attorneys Association who brought me the bill. And with that, I'd be happy to work with the committee and go from there.

LATHROP: OK. Any questions for Senator Hansen? I see none.

M. HANSEN: Thank you.

LATHROP: Thanks, Senator Hansen. Proponents. Good afternoon.

JOE NIGRO: Good afternoon, Senator Lathrop, members of the committee. I'm Joe Nigro, J-o-e N-i-g-r-o, and I'm the Lancaster County Public Defender. I appear on behalf of our office and the Nebraska Criminal Defense Attorneys Association in support of LB1007. I want to thank Senator Hansen for introducing this bill to deal with the problem of long wait times for people to go to the Lincoln Regional Center to be restored to competency. Senator Hansen has been a real leader on competency issues. Any party can ask the court in a criminal proceeding to have the defendant evaluated for competency. The case is then put on hold. The court can then order an evaluation by psychiatrists or clinical psychologist. If the person is found incompetent to stand trial and not restorable, the charge must be dismissed, but the county attorney can seek a civil commitment. If the person is found incompetent to stand trial but restorable, they then wait to go to the Lincoln Regional Center, where they attempt, where an attempt to restore competency will be made. Senator Hansen's bill passed last year would allow outpatient restoration starting next year. That will help. However, the shortage of enough inpatient beds and inadequate community mental health services has resulted in large numbers of people with mental health issues caught up in the criminal justice system. When people are so ill that they cannot understand the proceedings or assist in their defense, the question of competency is raised. The shortage of beds at the Lincoln Regional Center has resulted in average wait times of 92 days in the most recent quarter to even go to the Lincoln Regional Center to be restored. The median wait time is 96 days. The average wait time at the regional center, once someone is there to be restored, is 90 days for men and 64 days for women. The median time is 80 days. And when we're talking about misdemeanors, we're talking about offenses that might result in a very short sentence, jail sentence or fine. And these people are locked up for six months or more. This bill would prohibit competency restoration on misdemeanors in Class IV felonies, which are nonviolent, low-level felonies. It makes no sense for people to be

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locked up for six months or more in offenses which would result in short jail sentences or a fine. Washington and Utah changed their laws after losing lawsuits over long wait times for restoration. Most people found incompetent are very ill and would likely be civilly committable. Dealing with them in the criminal-- in the mental health system makes more sense than what we are doing. Treating mental health in the criminal justice system is costly and inhumane. In 2019, 50 of the 131 people who went to the Lincoln Regional Center to be restored to competency were there for misdemeanors or Class IV felonies. This waste of resources makes no sense. Taking these people off the list would result in a huge decrease in the wait time to go to Lincoln Regional Center. This would save county jails a lot of money. I think for Lancaster County it, if you remove that number of people, might be \$3 to \$400,000 potentially. Let's limit this process to serious offenses. Spike Eickholt and I met with representatives for the county attorney and Senator Hansen to see if we could agree and compromise language that would advance the review hearing to 60 days from 6 months. We need to work on language that would then allow the defendant to request a dismissal. The states who lost lawsuits have banned restoration on minor offenses and created a process for dismissal after a period of time, depending on the offense for other offenses. We should act before we lose a lawsuit. Depriving these people of liberty for far longer than the sentence they would receive is wrong, and I urge you to advance LB1007. And I'm happy to take any questions.

LATHROP: I don't see any questions, Mr. Nigro. But thanks for being here today.

JOE NIGRO: Thank you.

LATHROP: Are there any other proponents of LB1007? Any opponents?

KATIE ZULKOSKI: Good afternoon, Chairman Lathrop, members of the Judiciary Committee. My name is Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying today on behalf of the Nebraska County Attorneys Association. The pages are handing out a letter that, once we had our meeting over lunch we just cut off about eight of their paragraphs and are just sending-- I'm submitting that letter specifically because we're opposed to the bill as introduced. As Senator Hansen laid out, we did meet today over lunch with representatives, Mr. Nigro and others, and those three points that he laid out for you, we do think is a small, admittedly small step. This is a huge problem to try to corral in one leg-- legislative bill. But as he laid those steps out,

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we think can make a difference in this competency process and the waiting time. And once, once we get the specific details ironed out, we, I won't have to sit here in opposition.

LATHROP: Senator Brandt.

BRANDT: So what specifically is their problem with the bill?

KATIE ZULKOSKI: Well, it was a couple of pages-worth. But I think, I mean, on the second page of the bill, where if someone was found incompetent for certain charges, they would just be dismissed, there was a real concern. These are people that generally need services. We need a way to get them the structure and services rather than just dismissing charges.

BRANDT: And that's it? OK, thank you.

LATHROP: So how does that work? Somebody is picked up for a, a consequential misdemeanor and they are incompetent. Judge orders a competency assessment, that's done. Clearly the person can't participate in a legal proceeding and it's a misdemeanor. Your concern is that they need services and maybe don't need to be prosecuted on a, on a, on a misdemeanor. How do they-- what's the process going to be to get them to the services?

KATIE ZULKOSKI: Well, we hope that there is a continued push by you all to-- there's a bill up for mental health courts. I mean, we think that there's a lot of things besides this that's going to get them services. But we think a review after 60 days, in some cases that's going to be longer. As Senator Hansen and Mr. Nigro noted, in some cases that's going to be longer. That would allow the judge and all the parties to the case to say, OK, has this person served the time they would have already otherwise served? Six months, they're waiting six months to even get these cases reviewed. That's too long. So we think 60 days might give people another chance to get this in front of them and think through additional options.

LATHROP: So the guy that's found not competent with a three-month waiting list to get into the regional center to have your competency restored, and the most he can get is a \$500 fine and a year in incarceration. Right now, they're waiting 90 days and then it's another 90 when they get down to the regional center, so they've got

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six months in just getting their competency restored and being held for pretrial. So are the county attorneys OK with dismissing or--

KATIE ZULKOSKI: I mean, I think when that's-- when the facts lead to that, absolutely. This bill, as the bill was written, though, it just-- it was dismissing. So I think in certain instances that's why we want that 60-day review to, to get back, get that case back in front of the parties so they can be looking at that.

LATHROP: OK. I don't see any other questions. Thanks. Anyone else here in opposition? Anyone here to testify in a neutral capacity? Seeing none, Senator Hansen. We do have two letters in opposition, one from Kalissa Holdcraft; and then Matt Kuhsne-- Kuhse, Omaha city prosecutor. And in a neutral capacity, Sheri Dawson, Nebraska Department of Health and Human Services.

M. HANSEN: Thank you, Senator Lathrop. And let me add, since you've read the letters, we have, we met with Sheri Dawson this morning. We've been in email with the city of Omaha and talked with the city of Lincoln and their city prosecutors. I've not run the final language by the city prosecutors, but gut feeling is it's going to turn out well. I do think Sheri Dawson's technical concerns were just eliminating that language to begin with from the bill. So I presume that will, that will go by the wayside. As introduced, kind of Senator Brandt's question of Ms. Zulkoski, it really was kind of a check on prosecutorial discretion. You would override it, the case must be dismissed. And the concern that I heard was if you dismiss the case before they've gotten any sort of mental health treatment, the bill had a provision to send them to the mental health board. But there's this group of people who exist who are repeatedly getting into criminal acts, but not getting a long prison sentence because they're minor crimes, but also aren't dangerous enough to qualify for a civil commitment. And it was kind of that group in the middle would just essentially kind of be coming in and going out, coming in and going out, which is why I think kind of a review process so that these cases nobody is getting kind of lost in the system. Nobody is getting lost in the shuffle. Similarly, the review process that when somebody is competent, they get out of the regional center as quick as possible. Some of the data I've shown is that it kind of depends on the court and the court availability. But for, for men in 2019, it took about an average of 32 days once they were competent, able to go back in court, for them to actually leave the regional center. And that's 32 days somebody who really, you know, there's a competent, you know, healthy

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person sitting in a bed that somebody else desperately needs. And I think this bill would help solve that problem, among others. With that, happy to work with the committee and take any questions.

LATHROP: Senator Chambers.

CHAMBERS: I've been in the Legislature a long time. I've been present many times when the County Attorneys Association has come to oppose bills. I have never, in a single instance, seen any of their positions of the sort that would show any compassion, any understanding of penology, any grasp of what the purpose of punishment by the state is, but only for locking up people, trying to keep them there. But I also am familiar with county attorneys who were subject to investigation by the counsel for discipline of the Nebraska Supreme Court. And a funny thing happened. Suddenly they became the people who wanted to receive understanding, wanted there to be a grasp of how mistakes are made. And the object should not be to punish a lawyer, but to rehabilitate one if such is the case. What I'm getting at, they don't want to be judged themselves in the way they judge other people. So when they come, I give some credence to what they say if they're talking about the technical aspects of a matter. But when we're talking about the totality of a human being, a broken mind, which is not going to be benefited by being locked up, I don't care what the facility is called, and only being locked up for a certain period of time. I discount all of that. And also I'm able to make a determination of why certain persons come to represent their county attorney's position rather than other county attorneys coming. If they've been around for a while, they wouldn't have to come on a bill like this because they know that there's a flimsy reason or basis to oppose it. So what they do is get a handful of straws, and whoever draws the short straw comes. And the only ones who are in the drawing of star-- straws are those usually who haven't been around too long. So they're earning their spurs, they're getting a chance to test out their chops. But in the meantime, it may result in injustice being done to an entire, entire category of our fellow citizens. I will make it clear that I support this bill. I'm glad that you brought it instead of me, because I can speak more forcefully in support of it. So it will not seem that I'm just trying to get a bill passed. However, whatever my motivation would be, it would be more noble than when the county attorneys come here to oppose something like this. So I hope you will not be discouraged. Continue doing the great work you're doing. And if there is a heaven, you'll be there. And if there is another place, I'll be

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there waiting to welcome the county attorneys, which is where the [INAUDIBLE]. That's all that I have. Thank you.

M. HANSEN: Thank you, Senator.

LATHROP: OK.

M. HANSEN: Thank you, Senator.

LATHROP: Thanks, Senator Hansen. Have a great weekend. That will close our hearing on LB1007 and bring us to Senator Morfeld and LB1036.

MORFELD: Senator Lathrop, members of Judiciary Committee. For the record, my name is Adam Morfeld. And that's A-d-a-m M-o-r-f as in Frank e-l-d, representing the fighting 46th Legislative District here today to introduce LB1036. Not nearly as cool as double 07, but LB1036 changes the age of majority from 8-- from 19 to 18 for healthcare decisions. It further allows youth incarcerated by the Department of Corrections to consent for healthcare. And we'll have the testifier behind me talk about the need for that a little bit. With that being said, I introduced LB1036 in response to University of Nebraska student leaders in my district who contacted me about the-- excuse me, about the difficulty in receiving needed healthcare in a timely manner. Students from the University of Nebraska Wesleyan, UNO, and UNK also brought similar concerns to me as well along with some, some pretty compelling stories. In cases of emergency, care can be provided without the consent of their parents. However, in cases of urgent or nonurgent issues, parents or legal guardians must be contacted for permission to treat symptoms, to treat symptoms sometimes leading to prolonged delays. I heard many stories about sinus infections, broken limbs, and other things that were untreated for some time until their parents or legal guardians were contacted to give consent. In one case, a student whose parents lived in Japan waited four hours to consent to treat after being hit by a car when they were stabilized. This is similar to legislation that I have introduced and we have passed into law that deals with mental health care treatment for 18-year-olds as well. Further, I want to note on the Department of Correctional-- Correctional Services side that I was approached by Matt Schaefer in considering to include similar provision for incarcerated youth to be able to consent to medical treatment as well. Section 43-285 grants authority to Department of Health and Human Services to consent to medical care for minors who have been committed to the care of DHHS. However, no corresponding statutory authority is granted to the Department of Corrections for minors committed to the

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care of DCS. DCS operates one facility for minors in Nebraska, the Nebraska Correctional Youth Facility in Omaha. Subsection (d) at the bottom of page 2 of LB1036 would correct this oversight by allowing minors in custody of DCS to consent to medical care. This is important because there are times that a minor in custody will somewhat-- will need somewhat urgent medical care. And if a parent or guardian cannot be easily reached or timely located, important medical care might be delayed. I also have an amendment to this that cross references to our-- I think it's a judicial bypass for abortion, too, to make sure that this doesn't supersede the current statute that deals with judicial bypass for those cases. The primary underlying issue, though, for the original intent of my, my bill here is that young Nebraskans who are independent for all other intensive purposes cannot consent to even basic medical care without their parents or legal guardians approval. I believe that this is a small change that will make a big difference and make it easier for 18-year-olds who can vote and who can be drafted to make healthcare decisions for themselves. I'm also offering that clari-- excuse me, that clarifying amendment for your review that deals with the judicial bypass I just discussed. There are many, not too many, but few behind me that will give testimony on why this bill is needed. And I'm happy to answer any of your questions. Thank you for your time.

LATHROP: OK. Senator Slama.

SLAMA: Senator Morfeld, thank you very much for bringing this bill. Over the course of my last two years here, we've discussed several bills to make exceptions to our age of majority of 19 to 18, because that's the federal age of majority. Would you be willing to consider bringing a constitutional amendment or working with me on a constitutional amendment to lower Nebraska's age of majority down to 18? What hurdles have we traditionally run into with that? Because I see a lot of exceptions being made and--

MORFELD: Yeah.

SLAMA: --when there's obviously a larger issue in the room, it's that our age of majority does not align with the federal age of majority.

MORFELD: Yeah, and that's a good question. To be honest with you, I didn't know it was in the constitution, so I, I thought it was a statutory [INAUDIBLE], but it is in the constitution?

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LATHROP: I don't know that it is.

MORFELD: I don't know-- yeah,--

SLAMA: Well, heck, that gets easier to fix then.

MORFELD: We, we could just amend it. You know, I-- so-- I mean, to be frank with you, it's a, it's a holdover from the past. In the past, there has been senators I know that have-- or there have been senators that I know that have tried to just change the age of majority. In the past, sometimes that does affect federal benefits, particularly for people transitioning out of foster care and some other services, because they get a little bit more time, which is really helpful for those individuals. With that being said, I think some of those programs have come and gone and that may not be a case anymore. So I do think that that is an idea that has validity. It's one that I personally would support. Obviously, we want to look at maybe some of the unintended consequences of it, but this does create a lot of complications. And quite frankly, we have a lot of students that come out of state. It's not just students-- I mean, it's anybody who's 18. We have a lot of students and nonstudents that come out of state that come to Nebraska thinking they're an adult voting and, you know, joining the National Guard or the military and then realize when they show up to the hospital, they can't consent to, you know, basic care. And it's really problematic for many people. And so my very long answer to your short question is I am open to that. I do think that this is a target approach that needs to happen this year. But if there's other ways we can address this in a broader context, I'm fully open to that.

SLAMA: Fantastic. Thank you, Senator Morfeld.

LATHROP: Yeah, I do think there's some people counting on child support to age 19 that would want to be down here to talk about it.

MORFELD: Noted, there you go.

LATHROP: Yeah. But with that said, I don't see any questions or any other questions. So thanks,--

MORFELD: OK, thank you.

LATHROP: --Senator Morfeld. We'll take proponent testimony.

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EMILY JOHNSON: Senator Lathrop and members of the Judiciary Committee, my name is Emily Johnson, E-m-i-l-y J-o-h-n-s-o-n, and I currently serve as the student body president and the student regent at the University of Nebraska-Lincoln. I want to make a disclaimer, I am not speaking on behalf of University of Nebraska administration, but I am speaking on behalf of the 26,000 students I represent as my constituency. So I was 18 at the start of my freshman year of college, moved into the dorms and within three weeks I got a sore throat. So I did what any student would do, I went to the Health Center to see the doctor, get tested for strep, and I was told that I couldn't get tested because I didn't have parental consent. Couldn't get either my parents on the phone because they at work, so I went home that day without seeing a doctor. Now I'm fortunate that my parents are from Lincoln, so within a couple of days my mom got off work, came down and signed a form and I saw a doctor and got treatment. Now unfortunately for most out-of-state students, international students, students who are not on good terms with their parents, that isn't an option. In fact, obstacles to care for issues as serious as a concussion, pneumonia, a broken bone, it's actually probably faster for these students to go to Iowa for treatment than to actually stay and try and get over the hurdle this parental consent form in Lincoln or Omaha or Kearney or really any college town in this state. So with that in mind, I think we should appeal to the higher philosophical grounds if we're giving students the ability to vote at 18, they can serve in the National Guard, they're adults. And so I ask that you support LB1036 and pass it not just for students, but for all 18-year-olds in Nebraska who would benefit from faster medical care.

LATHROP: OK. Senator Pansing Brooks.

PANSING BROOKS: Thank you so much for coming, Ms. Johnson. You provide such help for our future, you did a beautiful job today. Thank you.

EMILY JOHNSON: Well, thank you.

LATHROP: Next proponent.

LAUREN McNEAL: Hello, all. My name is Lauren McNeal, that is L-a-u-r-e-n M-c-N-e-a-l, and I'm also here with ASUN student government representing the student body, and I'm the government liaison committee chair in our student government. I had a very similar experience to Emily when I was a freshman, I was 18 I got sick. Thankfully, my mother was self-employed and could get to a fax machine and fax over her consent for me. However, I'm here with a

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testimony of another student who had a much more difficult situation, and she could not be here today because she had to work. So I will read you her testimony.

LATHROP: Can you just describe it?

LAUREN McNEAL: Yes.

LATHROP: We, we do have a rule against reading other people's testimony.

LAUREN McNEAL: Oh, yes.

LATHROP: So if you want to relate her story, that's fine, but--

LAUREN McNEAL: Yes, of course. Her story, she went to the Health Center when she was 17. She came into college as a 17-year-old. She-- to just get a checkup. And she was called the next day by the nurse, and she missed the call. And when she got back to the nurse, the nurse told her she had high cholesterol, but forgot to tell her she had anemia. So then-- and she couldn't see her One Chart patient, which is how you see your medical results after you go to the Health Center, because she was 18, only her parents could see it. And so the next summer, when her hair was falling out and she was sick and she didn't know what was going on, her father went into her One Chart and saw that there was a prescription for iron pills and vitamin C in there for her anemia that she did not know about because she was 18 and could not get into her One Chart to see those-- that prescription and, and be treated. So therefore-- and this is just one of the many student testimony-- student stories that we've heard over this. And therefore, I'm asking you to also support LB1036. Thank you.

LATHROP: OK. I don't see--

PANSING BROOKS: I'll just say, again.

LATHROP: OK. Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming. We just love it when students come. And, and it's really important to be engaged in your state's government. Thank you.

LAUREN McNEAL: Thank you.

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LATHROP: Good afternoon.

TERRY SHANNON THOMAS: Good afternoon, Senator Lathrop and the committee. My name is Terry Thomas, T-e-r-r-y S-h-a-n-n-o-n T-h-o-m-a-s. I'm gonna read. I'm testifying in support of LB1036, changing the age of majority to 18. I'm a family nurse practitioner and this testimony reflects my experience and opinions and those of Dr. Heather Eberspacher. Dr. Eberspacher and I both work at the Nebraska Medicine UNL Student Health Center. To say that this is a wonderful population, I can't agree enough. This testimony does not reflect the opinion of the University of Nebraska-Lincoln or of Nebraska Medicine. Nebraska 18-year-olds and out-of-state UNL students face complications accessing health services, as you've already heard. A medical power of attorney must be signed by a parent or guardian before any healthcare services can be given to a student who's younger than 19 years of age. As most states have 18 as the age of consent, out-of-state students arrive without a power of attorney for healthcare from their parents. They expect it to be the same. They have no idea that they are not considered adults in Nebraska until age 19. Contacting their parents via phone to get a verbal power of attorney can be a difficult and not very timely matter. These students can have difficulty getting healthcare services, whether it's because they need sutures for a severe cut, treatment for a cold or influenza, or evaluation of infection. There are many other reasons-- services of which are affected by this age limit, not just at the University Health Center, but everywhere in Nebraska. They cannot even go to an Urgent Care. There is also a limitation regarding access, as was mentioned to our electronic health record via the patient portal. Now the patient portal is where you have an account with the electronic health record, which is secure. And not only can we send them their lab results, give them results of their X-rays if they've had to go somewhere or go to the emergency room or there's complications, but also unable to communicate with them, they can't communicate with us either. And that's a difficult thing. Young people communicate more by electronic means than they do by telephone calls. And this is a real difficulty in communicating with our students. Let me give you an example of the issue, an 18-year-old arrives at the clinic because she's been running a fever of 102 for two days and wants to be evaluated for influenza. She's originally from the East Coast, where age of consent is 18, but her parents are working for the Department of Defense in Bahrain. We do not have a medical power of attorney and despite multiple phone calls, we are unable to reach her parents by phone. Not only can she not be evaluated in our healthcare center, she

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cannot go to an Urgent Care. It took several days to get the requisite paperwork for her to be evaluated so, thus, she missed the window of time to get Tamiflu. Students from other states face the same dilemma, not even understanding that they need a power of attorney for services until they arrive at the health service sick or in need of some sort of care. We deal with this issue every single day at the University Health Center, and it greatly affects access to much needed healthcare for our student population. Of note, there is already a Nebraska statute that allows 18-year-olds to get mental health services without parental consent. This has been of great benefit to young people to be able to access mental health services. Expanding this to all the other areas of medicine further improves the well-being of those in this particular demographic. Therefore, doesn't it make sense to allow 18-year-olds to have access to comprehensive medical care? I thank you for allowing me to testify and if you have any questions for me, please, please ask them.

LATHROP: Senator Brandt.

BRANDT: Thank you for your testimony. Couldn't they just go to the local emergency room and seek treatment?

TERRY SHANNON THOMAS: Would you go to the emergency room if you thought you had a cold and didn't know what to do?

BRANDT: I would if I was denied at, at your Health Center and I thought that was the only way I could get any treatment. I mean, if you tell the student that because of Nebraska law, you can't treat them because they're 18, would a, would a little local emergency room-- they would have to treat them.

TERRY SHANNON THOMAS: It's access, but it's finances. These are poor college students.

BRANDT: I understand that, but I mean if--

TERRY SHANNON THOMAS: If it's not emergent, would you want to go and spend \$3,000 to be told you have a cold?

BRANDT: No, certainly not.

TERRY SHANNON THOMAS: That's an access issue then.

BRANDT: Yeah, it is an access issue. But I guess if, if the previous--

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TERRY SHANNON THOMAS: If all else fails, you can go to the ER, right?

BRANDT: Yeah, if all else fails, they can-- I guess that's the point I'm trying to make here.

TERRY SHANNON THOMAS: But why should we go to that point?

BRANDT: Shouldn't have to.

TERRY SHANNON THOMAS: That's right. That's my point about this, is that we have to deal this every living day, I'm not, I'm not on my parents insurance. I-- you know, I'm 19 and I had-- went to a foster home. I don't have any health insurance. What should I do then?

BRANDT: Will this still not be a problem as a previous testifier stated that, that the one student at the university was 17-years-old. We pass this and we make it 18, is that still not a problem for that 17-year-old?

TERRY SHANNON THOMAS: It's still a problem for that 17-year-old, but the proportion of students that start college at 17 is quite small.

BRANDT: All right. Thank you.

TERRY SHANNON THOMAS: You're welcome.

LATHROP: I don't see any other questions. But you mentioned a doctor's name.

TERRY SHANNON THOMAS: Dr. Heather Eberspacher.

LATHROP: Just for my transcribers, can you spell that for us?

TERRY SHANNON THOMAS: Yes. E-b-e-r-s-p-a-c-h-e-r.

LATHROP: OK. That'll make it easy on the transcribers.

TERRY SHANNON THOMAS: It's a bad name.

LATHROP: It would have been a guess to us.

TERRY SHANNON THOMAS: Yeah, it would.

LATHROP: OK. Thank you for coming down this afternoon.

TERRY SHANNON THOMAS: Thank you very much.

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LATHROP: Other proponent testimony. Good afternoon.

JEAN MARTIN: Senator Lathrop and members of the committee, I'm Jean Martin, J-e-a-n M-a-r-t-i-n, a physician and an attorney with COPIC Insurance. COPIC insures over 900 physicians and 42 medical facilities in Nebraska. We had an insured practice ask who can consent to medical care for a minor in the custody of the Department of Correctional Services. In this actual case when the patient was initially treated, he was in the Youth Rehabilitation and Treatment Center and a DHHS representative, I believe a nurse consented to his medical care. When a person's committed to the Office of Juvenile Services within the Department of Health and Human Services for treatment, he or she is also considered a ward and committed to the care and custody of the Department for the purpose of obtaining healthcare and treatment services. The patient subsequently needed additional treatment, but by then he had been placed at the secure youth confinement facility. He was committed to the Department of Correctional Services for secure care and was no longer considered a ward of DHHS. I looked into this a little bit to get the background on it, and historically in 1996, with the passage of LB1044, OJS was transferred from the Department of Correctional Services to the Department of Health and Human Services. The Legislature struck the words care and custody when providing for commitment to DCS, but kept them when referring to the Department of Social Services, which is now HHS. So this created a limbo period for this patient from being a ward of DHHS. And then the law was somewhat silent as to who can consent until he became an adult at age 19. So the default position would be that the DCS would have to get a hold of the parent or guardian. In my experience, I worked as an emergency physician in Colorado, and have treated many minors in custody. When I was an ED medical director, our facility was the closest one to the Arapahoe County Detention Center. In Colorado, minors can consent to their own treatment during their time in custody. Having to seek parental consent to treat every illness or injury would have unnecessarily delayed care and also, importantly, taken the time of the guards or officers who were required to accompany these patients. We also insure in, in Iowa and Iowa has a similar law as Colorado's and the language in the bill was actually based on Iowa's law. I realize that there may be concerns as to the ability of a minor to consent to medical care in these situations. But the law just sets a floor, it just sets the minimal standards. As a medical professional, I am still held to the professional standard as to whether that's appropriate. So as an extreme example, in Colorado, a 12-year-old girl could consent to getting birth control. But as a doctor, I would have

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to consider whether she is truly capable of consenting or whether she is being coerced, trafficked, sexually abused, etcetera. That analysis would be no different for a minor in custody with DCS who needs medical care. It would be inappropriate to delay their treatment when they are capable of understanding the bene-- the benefits and risk of treatment and their parent or guardian may realistically have had no responsibility for their care in years. So we support LB1036 and I'm happy to answer any questions.

LATHROP: I'm a little confused, if I may, Doctor, COPIC is a malpractice insurance company and you're talking about the kids that are in custody.

JEAN MARTIN: Well,--

LATHROP: Are you-- is COPIC--

JEAN MARTIN: --it came about--

LATHROP: --concerned with--

JEAN MARTIN: We, we create this little booklet to help our insureds because the laws of consent for minors can be very complicated. So it's minors in risk. And the insured said, you know, I see this here when they're a ward of the state that the, the state agency can consent. But here I have this patient in front of me, and under Medicare a condition of participation, you have to have a signed surgical consent. And this was a case where they needed surgery.

LATHROP: You're, you're concerned by your physicians providing care when there's not a consent and this will facilitate a consent.

JEAN MARTIN: Especially in the situation where a minor-- I mean, you always are balancing-- informed consent is a process, it's not necessarily a piece of paper. So the first step is, does that person have the capacity? So even an adult patient in the ER-- so the default position in the law is that all adults can consent to their own care or refuse their own care. But if I have an intoxicated patient who's been in a car accident or had a head injury, I would be committing malpractice to let that person refuse care and walk out of the ER. So it's like that there's the law and then there's the medical standard.

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LATHROP: OK. And does Senator Morfeld's bill-- I want to make sure I understand, does LB1036 cover you're concern or do you think something else needs to be done or amended into it to address your concern?

JEAN MARTIN: I think it will cover it. It will,--

LATHROP: OK.

JEAN MARTIN: --it will clear up that limbo period and let that minor consent to his or her own care,--

LATHROP: OK.

JEAN MARTIN: --which in the most situations is not controversial.

LATHROP: OK. I don't-- oh, Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming, Ms. Martin. I was just wondering, can I get a copy of that children-- or do you have enough of those to send around to people?

JEAN MARTIN: Yes, absolutely do.

PANSING BROOKS: Thank you.

LATHROP: OK. Thank you.

JEAN MARTIN: Thank you.

LATHROP: Anyone else here to testify as a proponent? Anyone here in opposition to LB1036? Anyone here in a neutral capacity? Seeing none, before Senator Morfeld closes, I will indicate for the record, we have letters of support from: Dr. Deol, at the Department of Corrections-- Correctional Services; Julia T-s-e, Voices for Children; Todd Hlavaty, H-l-a-v-a-t-y, Nebraska Medical Association; and Wendy Patterson, with the Social Workers Nebraska Chapter. Senator Morfeld.

MORFELD: Thank you very much for the time. You know, to, to your comment, Senator Brandt, yeah, I mean, I think that there obviously is the emergency room. I'll tell you right now that even for students who have health insurance, I've had several students contact me when they've gone to the emergency room and they've gotten surprise bills in the thousands of dollars even when they actually do have insurance. So the emergency room is about the last place you want to go because that's the most expensive place. But in any case, I think we do need

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to do something about this. I'm happy to close a loophole for Department of Correctional Services in that case, and I'm happy to work with any other senator in making it broader as well.

LATHROP: Senator Brandt.

BRANDT: Thank you, Senator Morfeld, for bringing this bill. And I guess my comment was more, today if something was wrong with you, I would encourage you to go to the emergency room. Is it the best place? Absolutely not.

MORFELD: Yeah.

BRANDT: And I guess I'm a little confused because when, back in the '70s and '80s, when I was a student at the university, the university health was for those students that would go to university health, and I don't recall there ever being an issue about your parents or anything else. Has something changed subsequently? She's nodding her head back there that something did.

MORFELD: Yeah. Yeah.

BRANDT: So I, I, I am unaware that that had changed. But I always sort of thought, you know, when you signed up at the university, the Health Center was for the students. So--

MORFELD: Yeah, it's still for the students. I think that there has been some changes since the 1970s, but we can dig a little bit deeper into that.

BRANDT: That's, that's [INAUDIBLE]--

MORFELD: Yeah, absolutely.

BRANDT: Didn't know if you knew something [INAUDIBLE].

MORFELD: Yeah, I, I don't know the exact history.

BRANDT: All right.

MORFELD: I was born in '85. So it's--

BRANDT: Thank you.

PANSING BROOKS: We held together.

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MORFELD: Did I lose your vote? OK. OK, thanks.

LATHROP: All right, Senator Morfeld. That'll close our hearing on LB1036 and bring us to our last bill of the day, Senator Chambers' LB924. Good afternoon, Senator Chambers.

CHAMBERS: It is a good afternoon, Mr. Chairman. I'm pleased to be here with my colleagues. I'm Ernie Chambers. I represent the 11th Legislative District in Omaha. I have a bill which is very straightforward. It is uncomplicated. And before I present it, I want to share with you a phone call I had with a police chief. He called my office, I wasn't there. You know, we don't spend all of our time in our office. So he called me at my home and left a message, he would like to talk to me about the bill. So I returned his call and he said that the police chiefs had a conference call and they were opposed to this bill. And some of the chiefs, he didn't name any ones on either side, some of them were kind of flabbergasted because the chiefs said that two hours a year, two hours a year of antibias training is too much and a burden and could they reduce that to one hour. And some of the chiefs were trying to persuade them that it wouldn't make sense to come to the Legislature and oppose an entire bill over one hour when it's dealing with something that is essential to helping them do their job the way it's supposed to do. And a genuine problem is documented not just locally or statewide, but nationally. So after we talked, I said that was the most professional approach anybody in law enforcement had ever made to me and that I appreciated it and that I hope he's not the one who has to come before the committee and state their position. He said, oh, nobody's going to come, they're going to send a letter of opposition. So to me, if they do have this opposition, it would be good for a representative to be here so that we could be enlightened on why 2 hours out of 365 days is too much of a burden for a type of training which all law enforcement agencies need and 2 hours is not enough. It's tokenism, but it gives a message to law enforcement that certain practices ought not be engaged in. Already there is specific detailed legislation on the books dealing with racial profiling, requiring reporting documentation of what is done toward minimizing this, reports that are to be made. And these standards are not even being complied with right now because there is no sanction if there is no compliance. With those intros, I'm going to read my statement of intent and editorial because I like to have documentation in a location from a source that anybody interested can access. Section 20-504 prohibits racial profiling and requires a written policy by every law enforcement agency to attain such a goal.

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LB924 requires the inclusion of, quote, antibias and implicit bias training designed to minimize racial profiling, unquote, in such policy. Specifically, the bill requires certified law enforcement officers to complete a minimum of two hours of, quote, antibias or implied bias training, unquote, per year. In addition to the existing requirement to complete at least 20 hours per year of continuing education in criminal justice and law enforcement courses to maintain certification. If they do not take these two hours, their certification is jeopardized. Finally, LR924 [SIC] provides an enforcement mechanism regarding record keeping and reporting relative to racial profiling. If a law enforcement agency fails to, quote, record or retain or report racial profiling information in a material manner, unquote, to the Nebraska Commission on Law Enforcement as required by law, such agency shall be ineligible to receive loans, grants, funds, or donations administered by the Commission. Here is the editorial, it's from the Lincoln Journal Star, August 14 of last year. Headline: Racial Disparity in Traffic Stops Shows Change is Needed. I am not on the editorial board of the Lincoln Journal Star. To my knowledge, no black person is. This is a white-owned newspaper and it's owned by Lee Enterprises. Warren Buffett just sold the World-Herald and a number of other papers he owns to the Lee Enterprises. I have no influence with or over Warren Buffett. I don't even know where the headquarters of Lee Enterprises would be. So this is truly an objective presentation by me of something which I had nothing to do with in writing or publishing. Quote, once again, data show that Nebraskans of color are pulled over at a disproportionately high rate. Statistics from the Nebraska Crime Commission indicate that minorities were at, at least twice as likely to be stopped, hyphen, in addition to being searched and arrested with greater frequency-- actually, it's a dash, as compared to white drivers in 2018. That disparity has lingered for years and years, even after the state banned racial profiling by police in 2001. Despite how well this constant inequity has been documented, a report issued earlier this month, which would be August, by the American Civil Liberties Union of Nebraska, details how little progress many of the state's law enforcement agencies have made in receiving antibias training. Given the persistence of this discrepancy and high-profile incidents involving persons of color from coast to coast, the report's findings should inspire action to reverse a trend that's shown no signs of abating some of the anecdotal evidence detailed. One story included an off duty black police officer handcuffed until his duty partner arrived is maddening. But what's particularly troubling is that the ACLU found only 11 of the 21 law enforcement agencies that responded

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had an employee participate in any antibias training during the survey, one-third lacked anti-racial profiling policies required by state law. So the ones who enforce the law are in violation of the law. Persistent, ongoing, deliberate, intentional violation of the law. So who shall watch the watchers? There's an oversight only that the Legislature can exercise. We cannot arrest anybody. We can not charge anybody. We cannot punish anybody. Under this system of government, there are those who enact laws, there are those who enforce laws, and there are those who impose punishments after a person has been found to have violated the law, has been charged, given a trial, whether fair or not is beside the point, and punished. But the Legislature can only enact the law. If the Legislature wanted to depart from the norm and give me some enforcement authority, I think I could do a lot of cleaning up from coast to coast, border to border. But that's just wishful thinking and a pipe dream. But I can dream, can't I. But I cannot sing. That's just to lighten the mood a bit so you all will think that I'm angry. If law enforcement departments aren't even meeting the minimum statutory standards, how is the needed reform going to happen? Nebraska has a long way to go in reducing the disproportionate number of stops, searches, and arrests of minorities. Perhaps just as continuing education is required to retain license-- to remain licensed in certain professions, increasing benchmarks of training of this nature could help cut down on the longtime disparity. Antibias training serves an important purpose in bringing to light unconscious biases we may not otherwise know we have. Oh, they're unconscious, because when the negative actions are directed from one source toward the same target, then that is not unconscious, it is not accidental, it is intentional. But editorial boards, when they put out their position statements, must manifest a degree of objectivity and give the benefit of the doubt to those where no doubt whatsoever exists do their-- to their long standing, intractable, unmitigated violations of the law and the manifestation of blatant racism. I'm reading this, not that I cannot say these things myself, but I believe in using the language of those to whom I'm speaking. You all, my colleagues, you're not to blame because you were born white, but when you are in this society, there's a certain upbringing that you have. You're given a certain outlook on life. So in order for me to communicate with you, I'm using the language written by those who write for you. It's not written the way I would write it. When I'm on the floor of the Legislature, you get a taste of the flavor of how I really feel and what I think. But since this is a legislative hearing where we're gathering information and compiling a record, I want those who hear what I say to understand it because I'm

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giving it to them in the language of their own kind. And it will be in the language of those who will read it. Of the state's largest law enforcement agencies, the Lincoln Police Department appears to have made the most progress on antibias training, and the word progress means different things to different people. That was a statement that I threw in back to the editorial. The ACLU report stated 94 of 508 employees had undergone specific antibias training in 2018, with the Department reporting that 323 officers completed a broader spectrum of coursework as part of its accreditation. Though the semantics in this case are not trivial, what matters is that LPD continues to be open and frank about the steps it's taken in years past and its plans for future improvement. In the end, improvement is the key word and law enforcement agencies have a blueprint in the ACLU's report, which offers clear, actionable suggestions including increased training and better data collection that the Journal Star editorial board hopes can bring the number of traffic stops more in line with the state's demographics. The continuance of the racial disparity in Nebraska's stops, searches, and arrests is proof positive that the status quo needs to be updated. There is already in the existing law dealing with racial profiling, the authorization for a model plan or policy that can be written by the Crime Commission. The same, if necessary, could be done for this antibias training or each agency can seek its own experts, talk to the universities, or wherever they need to go to whomever they need to speak that would be allowed under the law. But in this instance, something must be done. And as far as the reportage not being what it should be, there is a provision in the law and you can find it in your copy of the bill on page-- there aren't many pages to the law. But anyway, it would explain to you the withholding of funds, grants--

PANSING BROOKS: Page 5.

CHAMBERS: Oh, page 5. Thank you. And I don't need to read that again because I touched on it in my statement of intent. I will answer any questions that you have and then determine if I need to answer any by way of closing.

LATHROP: Senator Brandt.

BRANDT: Thank you, Senator Chambers. Enlighten me. So this antibias training is different than racial profiling?

CHAMBERS: Yes, the racial profiling is the activity that is engaged in where based on a person's race, color, you make a stop that is either

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pretextual or totally unwarranted. That could go to the type of training you get in terms of how an officer is to carry out his or her duties, regardless of the race, religion, or anything else. That if you make a traffic stop, you have to be sure that a specific law has been violated. You make a notation of that violation and you write the violation in terms of the statute that was violated. When it comes to this antibias training, to give-- to soften it and give people a way out, many apologists for the police will say they're not aware that they have this negative attitude toward black people. So it's subconscious or unconscious. So what you do is call attention to these attitudes. You might put a picture on the wall of a black man who looks like me and a white man who looks like Senator Lathrop. And you say, now if you did not see either of these individuals do anything-- I'm on the left, the suspect on the left didn't do anything and the white gentleman on the right didn't do anything. Now which of them would you, based on your experiences, be suspicious of? He'd say, well, the suspect on the left. And then they say, that's what I'm talking about. All you saw was a picture, and from that picture you drew a conclusion. Preparatory to coming with this bill, I've read an article on the floor of the Legislature where a black man had won a multi-thousand dollar settlement in a discrimination complaint. The check was drawn by the ones who lost on a certain bank. He took those checks to that bank to deposit and the bankers were suspicious and thought the checks were probably fraudulent. And instead of making an inquiry, they called the police, four police officers arrived on the scene. So this attitude is found not just in the police, it's an attitude endemic to white society and in other places where black people are not the minority. It always happens that those people who are considered a minority, even if their majority, as in Australia, they get the short end of the stick. And the reason I bring a bill like this, even though I think it's preposterous to suspect or expect the two hours of training can accomplish anything, we have to get-- we have to take what we can get. And if we can create a set of circumstances where based on the law, the police departments have been made aware of this kind of attitude being unacceptable, even a modicum of training given to rectify it. Then when they engage in this conduct, they can not get that choirboy look of innocence and say, gee, I didn't realize that I had this attitude. Well, look, yes you did, because this is what you were given, this is what you were taught. And the reason it's so difficult for me is because I know that it shouldn't take all that. I know these people are not as dumb as they pretend to be. And when they can treat Senator Brandt, Senator DeBoer, Senator Brandt-- Pansing Brooks, madam committee clerk, and

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all the rest of you all the way they'd want to be treated or the way they'd want their wife, sister, or daughter to be treated, treat mine the same way. This issue will never be resolved in America. And then I'm going to stop. If I were a giant hippopotamus and all of the problems that black people confront could be put in a bushel basket, I would open that huge hippo mouth and I'd swallow them in one gulp. But not being a giant hippopotamus, I'm not able to swallow even an apple in one gulp, I have to take small nibbles, do it incrementally and get what I can. But I'll be completely honest with you, there is a different approach that I would take were I free to do so. And when I took my hand and raised it the first time I was sworn in, as they called it, I said without mental reservation that I would discharge the duties of this office to the best of my ability. And that does not include grabbing people by the throat. It doesn't include sneaking up somebody-- behind somebody with a baseball bat. It doesn't include getting an automatic rifle of whatever caliber or model, going to Walmart, a synagogue, a church, a baseball game and killing as many people as I can before something happens to me. That is not what I agreed to do. And my word is my bond, no swearing to God, nothing. No threats from anybody else. It's a self-imposed standard of conduct that I comply with. And that's why I could be more or less civil for 46 years in a hostile environment, 46 years of driving a car back and forth to Omaha-- from Omaha to Lincoln in all kinds of weather, 46 years of taking an unpopular position alone, 46 years of overlooking all of the hostile, discriminatory things done by white people to black people and swallowing it and forgetting and looking at white people as citizens. And if they have a problem and are treated unjustly, instead of gloating and saying like Christians do, God is bringing justice, I didn't swear to let God do it. I said I would do it. I have stood and protected the family of a racist farmer who was killed, I felt unjustly by the State Patrol. A young white boy who was charged with second degree murder because he lit a fire by a fence. The fence caught fire. The fire communicated with a store. The fire department was called, a fireman who was called a hard charging firefighter, went deep into the fire. It caved in on him. He died and they charged the young white kid with second degree murder. I, without being asked, pointed out that before they could do that, they would have to show that there was an intentional act on the part of the boy to set a fire that would consume, consume this building. You could not prove arson because the intent was not there. And without proving arson, you cannot charge second degree murder. And the judge ruled as if he had read what I had written about it, and it was published in the paper. Forty-six years of compiling that record. Then at the end

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of that long journey in the twilight of my life on the back porch of the years that I'll spend on this earth, I am reduced to bringing a bill, which only does this to address one of the most intractable, unyielding types of racist mistreatment at the hands of the police. And all it does is say two hours out of the year, two hours out of the year. Tell these people, enforce the law the way you know it should be enforced, enforce it the way you swore that you would enforce it. Treat women like you would treat your mother or you'd want your mother treated. Treat children the way you'd want your children to be treated. And that's all that you're being asked to do. Then I get a call from a chief of police who says that his colleagues feel that two hours a year of this is too much. Weigh those two hours against my 46 years. And you might get an idea of how much self-control that I can manifest when I have to. But if you have any questions, I will answer them and I'll be civil to you because you're not the problem here, you're the problem on the floor of the Legislature and that's a different story.

LATHROP: Senator Pansing Brooks.

CHAMBERS: And I'll sit at my chair, but I will not ask questions.

LATHROP: That's fine. I think Senator Pansing Brooks has a question for you, Senator Chambers.

PANSING BROOKS: Thank you for bringing this, Senator Chambers, I think this may be one of your last bills, so that's sort of sad. At least while I'm here. But I can't believe that the two hours is too much either. And I wondered if there's some way to even just say that the implicit bias training has to be within their 20 hours. And I mean, it-- I can't imagine that that isn't necessary and highly important. Was there any kind of discussion about that at all?

CHAMBERS: What I'm, I'm thinking and was thinking is that I should give my presentation, then when we have an Exec Session, there can be a discussion of precisely what we ought to do. If two hours is too onerous, then we will decide. Or if there is a way to incorporate this into the generalized training and make sure that there is a record kept of reportage, then maybe we can take that approach. But we don't have to do it right this minute during this hearing.

PANSING BROOKS: OK. Well, that's-- the implicit bias training is something that we were able to pass last year in our school resource officer bill. We had a lot of help from a lot of different groups. So

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those schools that have officers that come to a school, if they're going to pay to have an officer, they must have both the educators-- one educator per school and the officer who comes to the school must have implicit bias training. So we're biting away at the apple, but it's not sufficient. And I appreciate your coming on this. I have one other semi-humorous, it's either humorous or we all should cry together in the letter from, from Steve Hensel-- I can't read under his writing.

BRANDT: Chief in Crete.

PANSING BROOKS: OK. Anyway, in his letter, he said, we believe requiring one-tenth of the mandatory minimum annual training hours. So now, of course, they're talking about mandatory minimums and that they are too extreme and that they must be given some ability to determine whether or not they should be required to follow a mandatory minimum. But on the other hand, when we're talking about juveniles or people who, you know, are in prison we're-- they're totally in support of mandatory minimums. I just found a little bit of sad humor in that line.

CHAMBERS: And irony, great irony.

PANSING BROOKS: There is great irony.

CHAMBERS: Yes.

LATHROP: OK.

PANSING BROOKS: Thank you, Senator Chambers.

LATHROP: Thank you for that introduction, Senator Chambers. And we will take proponent testimony.

ROSE GODINEZ: Hello, my name is--

LATHROP: Good afternoon.

ROSE GODINEZ: Good afternoon. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-i-e-z, a pronoun she, her, hers, and I am testifying on behalf of the ACLU of Nebraska and as part of the Latino American Commission in favor of LB924. I'm circulating our written testimony and also our report, which Spike already circulated, but I'm recirculating just because I'll be referencing through it, it throughout my report. I first want to give a big thank you to Senator Chambers. I am honored

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to even sit here right after him and, and really take this issue personally, not only, not only personally, but professionally, professionally, but personally. Oh, my gosh. OK, LB924 adds a crucial and basic law enforcement training requirement of two hours of antibias training. It additionally provides for an enforcement mechanism to ensure compliance with traffic stop data collection to the analysis of racial-- critical to the analysis of racial bias and traffic stops. Racial profiling by law enforcement as you've heard from Senator Chambers is of long-standing and deeply troubling problem in Nebraska and the United States. The ACLU and the Commission remain deeply concerned about these racial disparity trends that have continued over ten years in the wrong direction. Since 2001, the statistics have shown, and I'm starking-- a stark picture that black, Latinos, Native Americans are continue-- continue to be two to three times more likely to be pulled over or searched compared to white drivers. And you can see those disparities on Appendix A, page 10, if you'd like to look at those. For those reasons, the ACLU decided to conduct an investigation of how law enforcement agencies are combating racial profiling. Particularly, we asked whether they had an anti-racial profiling policy; and second, whether they participate in antibias training. And I won't rephrase everything that Senator Chambers said, but I do want to give you a couple of notes. Some of the largest law enforcement agencies and most-- and the ones found in some of our most diverse counties had very little participation in antibias training: the Nebraska State Patrol had 4 percent; Omaha Police Department had zero; Douglas County Sheriff, zero; Lancaster County Sheriff, 3 percent; and Grand Island Police Department, 5 percent. In closing, Nebraska law enforcement agencies with LB924 have an opportunity to address these persistent and unfair disparities in traffic stops and to ensure fair and equal treatment of all Nebraska drivers. And for those reasons, we urge you to advance this bill to General File. I'm happy to answer any questions on the report or my testimony.

LATHROP: I do not see any questions at this point. We appreciate you bringing that--

ROSE GODINEZ: Yeah.

LATHROP: --your work here in the form of this book and we'll hang onto it and your testimony today.

ROSE GODINEZ: I appreciate it. Thank you.

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LATHROP: Thank you.

ROSE GODINEZ: Thank you.

LATHROP: Anyone else here to testify in support? Good afternoon.

SCHUYLER GEERY-ZINK: Good afternoon, Senator Lathrop, committee members. My name is Schuyler Geery-Zink, S-c-h-u-y-l-e-r G-e-e-r-y hyphen Z-i-n-k, and I am a staff attorney with Nebraska Appleseed. Nebraska Appleseed is a nonpartisan, nonprofit organization dedicated to justice and opportunity for all Nebraskans. We work closely with communities across the state and recognize how LB924 would support law enforcement in keeping Nebraskans safe. Safe communities are critical for a prosperous Nebraska. When community members trust law enforcement, they can work with police to investigate crimes and help keep the community safe. As one police officer explained, we can drive around in our cars all day, but if no one will talk with us, we can't fight crime and keep the community safe. Law enforcement personnel are also expected to be fair and impartial in their critical role as part of our justice system. The reality is everyone has implicit biases. Without our conscious knowledge, we are all trained in a variety of ways over the course of a lifetime to view the world in certain ways. While these biases are detrimental to everyone in their day-to-day, they can become deadly in a situation where an officer must make fast-paced life or death decisions. An innocent civilian may be mistaken as a perpetrator and hurt or even killed because of bias. A dangerous perpetrator may even be overlooked because they do not match a certain stereotype. LB924 is a tool to help law enforcement fight crime and build trust with communities. The bill requires only two hours of antibias training as a simple addition to the existing 20 hours of necessary training officers go through to prepare for their important work in protecting the community. Fundamentally, this training helps eliminate bias and increases law enforcement's objectivity while interacting with our community members. Nebraska is safer when communities and law enforcement build trust together. Assist law enforcement in keeping communities safe by advancing LB924. And because I have a second, I would just like to mention that at Nebraska Appleseed we also do similar trainings just in our work. And it's very reasonable to expect that many organizations, companies, and now law enforcement as well would engage in these kind of antibias trainings just to help us with our, our work. So thank you for your time. I'll take any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 31, 2020

LATHROP: I don't see any questions, but thanks for being here today.

SCHUYLER GEERY-ZINK: Thank you.

LATHROP: Yeah, have a good weekend. Any other proponents here to testify today? Anyone here to testify in opposition? Anyone in a neutral capacity? Seeing none, we do have four letters of support for the record: Tessa Foreman, with Nebraskans for Peace; Marrienne Williams; Kelly Keller, from the Social Workers Nebraska Chapter; Juliet Summers, from Voices for Children. We have two letters in opposition: Steve Hensel, from the Police Officers Association of Nebraska [SIC]; Terry Wagner, Lancaster County Sheriff and the Nebraska Sheriffs' Association. Senator Pansing Brooks.

PANSING BROOKS: Well, I just wanted to say that I think-- the fiscal note only shows like \$25,000 worth of costs to train people. I mean, that's, that's what I'm seeing. So if that's-- and some of the, of the-- like the city of Lincoln didn't present any kind of, of fiscal note. So-- I mean, the point is, that's not very much money. If we're able to train the state for \$25,000 in implicit bias, seems like a really good deal to me. So thank you very much for bringing this, Senator Chambers.

LATHROP: Senator Chambers, did you want to close?

CHAMBERS: I don't think I need to.

LATHROP: OK, very good. That will bring to a close our hearing on LB924 and our hearing for today, this week. Have a great weekend.