

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 25, 2022

LATHROP: If you don't mind, we'll get started. So I see a number of, I see a number of unfamiliar faces so welcome to the Judiciary Committee. In a moment, I'll read sort of the how do we run a hearing or what the process looks like so that you are-- you know what you need to do if you want to testify, how long you have to speak and that sort of thing. But it's good to have you here. We look forward to your input on the five bills that we're going to take up today. We'll take them up in the order presented outside. OK. Good afternoon. By the way, my name is Steve Lathrop. I represent Legislative District 12 in Omaha and I Chair the Judiciary Committee. Committee hearings are an important part of the legislative process and provide an important opportunity for legislators to receive input from Nebraskans. If you plan to testify today, you will find yellow testifier sheets on that table over there. Fill out a testifier sheet only if you're actually going to testify before the committee and please print legibly. Hand the yellow testifier to the page-- these young people with the vests on-- when you come forward to testify. There's also a white sheet on the table if you do not wish to testify, but would like to record your position on a bill. This sheet will be included as an exhibit in the official hearing record. If you're not going to testify in person on a bill, but would like to submit a position letter for the official record, all committees have a deadline of 12, noon, central time the day before the hearing-- the last workday before the hearing. Please note there's a change this year and position letters to be included in the official record must be submitted by way of the Legislature's website at nebraskalegislature.gov. This will be the only method for submission of letters for the record other than to testify in person. Letters and comments submitted by way of email or hand-delivered will no longer be included as part of the hearing record, although they may be an option for you if you want to communicate your views with an individual senator. Keep in mind you may submit a letter for the record by way of the website or testify at the hearing, but not both. We begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We ask that you begin your testimony by giving us your first and last names and spell them for the record. If you have copies of your testimony, bring up at least ten copies and give them to the page. If you are submitting testimony on someone else's behalf, you may submit it for the record, but you will not be allowed to read it. We will be using the three-minute light system. When you begin your testimony, the light on the table will turn green. The yellow light is your

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one-minute warning and when the red light comes on, we ask that you wrap up your final thought and stop. As a matter of committee policy, I'd like to remind everyone that the use of cell phones and other electronic devices is not allowed during public hearings, though you may see senators use them to stay in contact with staff. I would ask that everyone look at their cell phones and make sure they're in the silent mode. A reminder: verbal outbursts or applause are not permitted in the hearing room. Also, we've gone paperless in Judiciary Committee so you may see senators using their laptops to pull up documents and follow along with bills. Finally, you may notice committee members coming and going. That has nothing to do with how they regard the importance of the bill under consideration, but they may have bills to introduce in other committees or other meetings to attend to. And with that, we'll have the committee members introduce themselves, beginning with Senator DeBoer.

DeBOER: Good afternoon, everyone. My name is Wendy DeBoer and I represent District 10, which is in northwest Omaha.

BRANDT: Good afternoon. I'm Senator Tom Brandt, Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties.

PANSING BROOKS: Hello, everybody. I'm Patty Pansing Brooks, representing Legislative District 28, right here in the heart of Lincoln, and I am the Vice Chair of the Judiciary Committee.

LATHROP: Assisting the committee today are Laurie Vollertsen, our committee clerk, and Neal Erickson, our committee counsel. And the pages today are Bobby Busk and Logan Brtek, which we appreciate. They're both students at UNL. And with that, we'll begin with our first bill of the day and LB909. And Senator McDonnell, welcome to the Judiciary Committee.

McDONNELL: Thank you. Chairman Lathrop and members of the Judiciary Committee. My name is Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l. I represent Legislative District 5, south Omaha. I'm here today to introduce LB909. The bill proposes to authorize mental health professionals and certified licensed independent mental health practitioners to begin the process of taking persons into emergency protective custody. LB909 was brought to me by the city of Omaha and the Omaha Police Department. The bill is intended to improve interactions for those that have mental illness. Currently, the individuals who have reached, reached a state of being a danger to themselves or others, a call is made to law enforcement. These

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individuals are suffering from one or more mental health illnesses. Undoubtedly, there is a sound public policy behind that, that interaction, as these can be dangerous situations. However, that is not the case for every situation. I feel we as policymakers should attempt to avoid circumstantial of the circum-- criminalizing of the situation and allow for a smarter solution to certain mental health scenarios. Oftentimes, there is an individual who is suffering from mental illness and a concerned citizen or a loved one will call law enforcement to handle the situation. Currently, only sworn peace officers are allowed to begin this process of emergency protective custody. It is my, it is my concern that having a police officer arrive at an already stressful situation, handcuff and place the individual in a secure vehicle, and then transport that individual to a medical facility or jail could create an even more traumatic situation for that person. An experience like this often only exacerbates the illness from which these individuals suffer. Ultimately, these individuals are ill. They are not criminals. It makes sense to treat them as such by allowing someone who is trained in the mental health and understands mental illness to initiate the emergency protective custody in certain situations. A second reason for this bill is to the overreliance on law enforcement in our criminal justice system and to handle our mental health issues. I commend our law enforcement officers, but they should not be the first line of defense in many of these instances. Based on Omaha World-Herald editorial, Omaha police officers filed-- fill-- filled out 1,193 emergency protective custody forms from September of 2014 to August of 2015. I understand this note-- this number is dated, but it adds perspective. Mental health issues are not going away and the negative effects and events happening here in Nebraska and around the world will only continue to intensify the number of these cases. Emergency protective custody calls are a very time-consuming process, a drain on our limited resources, which are already spread extremely thin. LB909 would allow mental health professionals to take these individuals into custody and seek the necessary protections for these individuals. I want to stress that this-- that-- the fact that this bill is merely providing the authority for mental health professionals and certified licensed independent mental health practitioners to initiate emergency protective custody. It is not mandating additional responsibility for them. There are many of these professionals and practitioners who truly want to help. I also want to stress the fact that LB909 does not eliminate a role for law enforcement in these situations. In practice, I believe this will apply to a narrow subset of instances. If we can improve the process in just a few cases, I believe this effort is worth pursuing. I do not take this lightly.

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This is an issue involving the liberty and rights of individuals in our communities. My intention here is to help these individuals who endure mental illness and end up in this situation. When I was hired on the Omaha Fire Department in 1989, they put us all through emergency medical technician training. We all became EMTBs, basics. On one on the-- one of the first things they taught us was that you should look at every patient as a family member, a friend, a neighbor, or someone that you knew and every call can-- you make will definitely-- you can make, you can make the difference and also, also the idea that every call is different. Today, we are talking about individuals with mental illness. No call is going to be handled exactly the same way. However, if there is an option for some of these people to be treated differently and not like a criminal, we could utilize the knowledge and experience of the mental health professionals and practitioners to avoid certain situations. LB909 provides that option. LB909 is, is an important bill that could provide better results and outcomes for victims of mental illness, while at the same time, it could eliminate some of the current workload and burden being placed on our law enforcement. Testifying after me today is Omaha Deputy Chief of Police Michelle Bang and Lindsay Kroll, who is the mental health coordinator with the Omaha Police Department behavioral, behavioral health and wellness unit. This, this bill I'm introducing today isn't going to solve our problem, but I do believe this bill will help put some people in a situation to help, help others that are truly suffering. And the idea of and the research behind this shows that it, that it can work. Again, nothing's going to be perfect, but I believe the people behind me that are going to testify will give you facts, but I don't want to lose focus of these people, which I think we've all had family, friends, neighbors that have suffered from mental illness. And if there's a way we can handle this in a more humane and professional way without law enforcement being the initial contact, that's the goal of this bill. I'm open to ways to improve it and I will be here to close.

LATHROP: You will or won't?

McDONNELL: I will, I will stay for close.

LATHROP: Oh, OK, good. Thanks, Senator McDonnell. I don't see any questions at this point in time. Thanks--

McDONNELL: Thank you

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LATHROP: --for your introduction, for being here this afternoon. We will take proponent testimony. So if you're here in support, you may come forward.

LAURIE VOLLERTSEN: [INAUDIBLE]

LATHROP: How many people are going to testify on this bill? It looks like two or three, four. OK. We ask that so we can alert the senator with the next bill and give them an idea how long it'll be before they'll be up. Welcome.

MICHELE BANG: Thank you, sir. Good afternoon, Chairman Lathrop and members of the committee. And I want to take a special moment to thank Senator McDonnell for bringing this bill forward. My name is Michele Bang, B-a-n-g if you need that, and I'm here representing the Omaha Police Department. I currently am a deputy chief with over 28 years of law enforcement experience and as Senator McDonnell stated, I oversee the behavioral health and wellness unit. This includes our co-responder program that includes a team of six highly skilled licensed mental health practitioners and it is at their behest and their experience in other states that the Omaha Police Department has asked Senator McDonnell to bring this forward. The Omaha Police Department, Department supports LB909 because it is a further step towards decriminalizing mental health issues and will assist persons who need to be committed but do not need law enforcement to commit them. It is important to state not all people who need to be EPCed fight or an active danger to themselves or others. In fact, many know they need help. They recognize they are acutely suicidal, but they need that final nudge telling them that they have to go to the hospital. Some are even relieved somebody is stepping in to help them. In these cases, the clinicians, family members, or even an EMS, depending on the jurisdiction, can be utilized to help assist with transportation. We cannot discount the fact that for some of our citizens, it is the very presence of the uniformed law enforcement officer that is the triggering factor that causes that person to act out and fight. It does not matter how highly skilled that officer is. OPD is not recommending that we no longer have the authority to EPC, nor are we saying to our clinicians that they have to do this alone. First, only clinicians who go through the certification training will be authorized to EPC. I expect the clinicians who want to do this are going to be the ones that work with populations that may require EPC on a more regular basis or are the crisis therapists already working within the community. Additionally, law enforcement will still have to be available or will still be available to help the clinician if the client refuses transportation or if they know, they know the client

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will act out aggressively. Say they are in an acute schizophrenic state. In this situation, law enforcement could and should still be called. However, once at the hospital, it would be the clinician who is the affiant as opposed to the officer, the officer who has limited experience or knowledge of this person. This will provide for better documentation. Currently, when officers are called to a clinical setting, setting, if the person refuses or states to the officer, I am not suicidal, the officer can only swear to what they observe and hear. They can include the hearsay statements of the clinician, but it does not carry as much weight as their own observations. Additionally, this will allow for direct admits of patients who are already in the hospital setting who are being evaluated by licensed practitioners. Currently, law enforcement, law enforcement must be called to those settings to complete the EPC or a physician must do a psychological hold by calling a county attorney to prevent the person from leaving a hospital. Again, this law will provide options. It is not a requirement. Law enforcement officers will still be called for situations in the community. The community has called for mental health calls to be handled outside of law enforcement officers. I apologize. Can I still continue?

LATHROP: If you're-- if it's brief.

MICHELE BANG: It's, it's-- I'm almost done.

LATHROP: OK.

MICHELE BANG: OPD has already taken steps to improve our interactions to include having co-responders on staff, utilizing crisis response therapies, therapists, and training more officers in crisis response. Our experience shows that when therapists who have thousands of hours of training and experience are on scene, we are more like-- we are less likely to EPC. By allowing licensed therapists to EPC our own team when, when we are having to EPC, it would be them completing the documentation as opposed to law enforcement officers without that training and hopefully this would provide for better outcomes.

LATHROP: OK.

MICHELE BANG: Thank you.

LATHROP: Any questions for the deputy chief?

GEIST: I do have a quick--

LATHROP: Senator Geist, sure.

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GEIST: --question. I was interested when you said that you see law enforcement taking that individual to the hospital and the handoff to the therapist made there. Is that how-- or, or would this individual go and pick up-- I-- can you outline for me how that would look?

MICHELE BANG: So, so the vast majority of our EPC calls are 911 calls to the community. Either it's to somebody's house or it's somebody who's literally in public acting out and having a crisis. But for those situations where a clinician is involved, we do have a handful of EPCs where it's at-- in a clinical, clinical setting. Right now, what happens is if that mental health practitioner wants to EPC, believes in their professional judgment, they'll call the law enforcement officer who will then take that person. And we complete an EPC form, which is essentially an affidavit describing our observations, saying that we should take-- because we're taking the rights away. We're committing them against their will.

GEIST: OK.

MICHELE BANG: And so what this would do is in those situations where the clinician feels that they can safely get this person to the hospital, let's say there's a family member, their support, they would just go with that person to the hospital and do the paperwork. Law enforcement wouldn't be involved at all.

GEIST: OK.

MICHELE BANG: However, if it's somebody that they thought might be dangerous, they could still call us. We would help to transport to get that person to the hospital, but they would be the affiant. We would probably still have to do a report--

GEIST: Right.

MICHELE BANG: --but they would be the affiant.

GEIST: So do you, do you foresee a situation where that individual is in the community and the mental health practitioner would go into the community and take that person to the hospital?

MICHELE BANG: Ma'am, I think that would be for those special circumstances where every region has crisis response therapists that are on call 24/7 that our law enforcement can access.

GEIST: OK.

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MICHELE BANG: The challenge is, is especially in some jurisdictions that are maybe larger, some of our counties, it may be several-- you know, it could be a long time for that person to get there. So a lot of times law enforcement, especially if it's obvious, will commit without that therapist there. In Omaha and some of our larger jurisdictions-- I know Lincoln, you know, they have-- we either have co-responders that are on staff that literally co-respond with the police right away and you're going to hear their experience.

GEIST: OK.

MICHELE BANG: They would be able to-- so the law enforcement officer is there so we're in the community, they would be able to make that assessment.

GEIST: OK.

MICHELE BANG: If they believe that, yes, this person still should be EPCed, the law enforcement officers with them will go to the hospital, but again, they're the ones that would do the paperwork.

GEIST: OK.

MICHELE BANG: Right now, we're the ones who do it.

GEIST: Understood. All right, thank you

MICHELE BANG: Hopefully, that explain-- I'm windy sometimes.

GEIST: No, that helps. Thank you.

LATHROP: OK. I don't see any other questions. Thanks for being here today. Next testifier. If you want to testify on this bill, if you want to come to the front row, that may make it easier for you to be able to get up there. Good afternoon. Welcome.

LINDSAY KROLL: All right. Thank you. Good afternoon, Chairman Lathrop and members of the committee. My name is Lindsay Kroll, L-i-n-d-s-a-y K-r-o-l-l, representing the Omaha Police Department. I'm the mental health coordinator and a licensed independent mental health practitioner with over 15 years of experience working in the mental health field, creating/overseeing programs, practitioners, and providing therapeutic services. In an era where we are creating more non-law enforcement responses to meet the needs for those in mental health crisis, with efforts such as 988 and mobile crisis response team-- only teams, we need to also create alternative options aside

from law enforcement for individuals to receive required interventions for their safety and determine the necessity of an involuntary level of care to treat their mental health-related needs. Law enforcement officers are not mental health professionals, yet they're put in a position to act as one. This is counterintuitive. There are times this is a necessity, but there are effective alternatives available. Many other states have benefited from including master's level clinicians as a mental health professional in the management of people who use violence towards other-- towards third parties or themselves. I have years of experience working in Colorado, for example, and providing this type of intervention and enacting involuntary commitment to remove one's civil right to be in a community based on their mental illness and risk level. This is common practice in many states, often utilizing alternative transportation options to include EMS to assist with that need. In 2021, the Omaha Police Department enacted 1,617 emergency protective custody placements. The co-responder team responded to 1,178 calls in the Omaha community. When a crisis co-responder or mental health professional was on scene, there were only a total of 240 EPC placements that occurred. This demonstrates an 82 percent diversion rate from hospitalization when a mental health professional was on site, ensuring those who were in need of that higher level of care received it in that effective manner. In an effort to continue to destigmatize and decriminalize mental illness so it is seen as a medical issue, it is important to recognize mental health professionals who are educated, trained, and licensed in order to provide therapeutic care to individuals in need. LIMHPs have years of experience, over 3,000 hours of mental health practice, post master's degree education, training, and diagnosis. This education experience comes with a lot, a lot of responsibility: responsibility to do no harm, therapeutically treat our clients while balancing informed consent, limits to confidentiality around assessing for risk factors of suicide, homicide, relapse potential, safety planning to mitigate risk, provide means restrictions, and of course, treating individuals in the least restrictive level of care required to meet the need. All of this is done in a therapeutic, recovery-oriented, trauma-informed manner as guiding principles to our licensure and practice as mental health professionals. We are advocates for our clients. We want them to succeed. We see the traumatic impact of unnecessary hospitalizations and the disruption it can create for someone. Therefore, by allowing those individuals who have received the education, training, and experience and proposed certification doing the work with those who have received mental health-- who are going through mental health struggles to determine that involuntary commitment would ensure that the most appropriate individuals receive

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that right level of care. This would free up space in emergency departments, decrease the need for utilization of the beds, and allow for alternative options from only law enforcement-driven responses to mental health crisis, which aligns with other initiatives. Thank you for your time.

LATHROP: OK. So the concept here is instead of calling law enforcement to statutorily make a determination whether they're a risk to kill themselves or another person, harm another person, and mental illness, you think, if this bill passes, we will have mental health professionals, not EPCing people, but taking them to a different setting?

LINDSAY KROLL: I believe we would have alternative options, which we do regularly with our clients. We work with people who are acutely suicidal and homicidal regularly. We see the efficacy of doing safety planning and connecting with resources, mitigating those means-- access to means to harm themselves or others, and we're really good at it. We-- it's what we do regularly. So it's about having the right person provide the right intervention and defer from those unnecessary hospitalizations.

LATHROP: OK. Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming. I appreciate it. So do you feel this works pretty much hand-in-glove with the, you know, all the work that's being done on the 988 number across the state?

LINDSAY KROLL: Yeah.

PANSING BROOKS: Can you speak to that a little bit?

LINDSAY KROLL: Absolutely. With the efforts of 988 really heavily focusing on finding those non-law enforcement responses, having mobile crisis teams being activated, it feels counterintuitive to provide that initiative and then require law enforcement to be the one to come and provide that involuntary commitment--

PANSING BROOKS: Yes.

LINDSAY KROLL: --right? We're trying to move away from that, so--

PANSING BROOKS: Yes.

LINDSAY KROLL: --I think we have to kind of align some other projects with this as well.

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PANSING BROOKS: That's great. Thank you for coming today.

LINDSAY KROLL: Absolutely. Thank you.

LATHROP: Very good. Thanks for being here.

LINDSAY KROLL: Thank you.

LATHROP: Good afternoon.

LEE DITTMAN: Hello. My name is Lee Dittman, spelled L-e-e D-i-t-t-m-a-n, and I am a-- the lead mental health co-responder with the Omaha Police Department. I have been a licensed independent mental health practitioner since 2012. I have worked in the community and since 2017, I've also been a member of the mobile crisis team in Douglas County, co-responder since 2018, and then I've just recently begun working as a consulting therapist after hours with local hospitals to help determine if individuals are safe to go home or if they do need to be admitted for inpatient care. I am here kind of just to share some stories or just some information about-- from somebody's point of view who's doing the work on the-- in the field. When I first began working as a mobile crisis-- or a co-responder, we had an individual who was in acute crisis. However, he did not meet the strict EPC standards set by statute with the officers, as they have said, because he denied that he was suicidal to the officers. However, I was able to speak to him further as a licensed mental health practitioner and able to get him to admit that he was suicidal. And then also he-- I listened to some, some of his, his voicemail that he'd changed to say that he was going to kill himself and that was the end of it. And after consulting with the officers, I was able to kind of convince them that he did need to be EPCed. Two days later, he called up OPD, thanking them for taking him to the hospital because otherwise he wouldn't be alive. And then in a second instance, I had a lady that called. She was very upset because she'd been EPCed the day before by law enforcement. She did say that she was suicidal. However, currently under the policy because law enforcement had to take her in the back of their car-- this is a woman who very much valued her reputation in her community and when being seen being taken into the back of a police car and then taken to the hospital, lots of questions came up and she was pretty traumatized by that event and she basically told me that she was not going to reach out for help again because of that. And I think if she'd been able to speak to her therapist and her therapist would have taken her to the hospital, that might have helped her a lot much more. In my current role as a consulting therapist, I think it's ironic that we see people taken to the hospital by family

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members or by law enforcement to the hospitals and then they call in a licensed mental health practitioner to do the safety assessment and help them determine if somebody should be taken in as an inpatient and then help find beds. So that is-- even, even emergency doctors realize that they, even though they have the training in medical school, they don't have the specialized skill set that a licensed independent mental health practitioner does because of the amount of hours we've spent working with individuals who are in crisis, so.

LATHROP: OK. All right, well, we appreciate what you do.

LEE DITTMAN: Thank you.

LATHROP: Thanks for being here. Next proponent. Good afternoon.

ANNE BUETTNER: Good afternoon, senators. Anne, A-n-n-e, Buettner, B-u-e-t-t-n-e-r. I am the legislative chair of the Nebraska Association for Marriage and Family Therapy. We are primarily mental health clinicians who specialize in family therapy and we are licensed independent mental health practitioners. And along with our discipline, there are other two disciplines, professional counselors, social workers. We are all licensed independent mental health practitioners, at least most of us are. We are selected from a pool of licensed mental health practitioners. It's the "I" that makes a difference. And currently in Nebraska, there are 2,521 of us, OK? We have high and rigorous standards to reach in order to become such [INAUDIBLE]. My colleagues have already related to you the standards. And to gild the lily, in this bill, there's already the proposed-- the EPC certificate training, which is another additional excellent safeguard of public health, you know? I think it's excellent. Now there are some mistaken fears that this bill adds restrictive measures to it. To the contrary, this bill only adds more work force, OK? It operates on the same principle. The recovery-oriented system of care that is already in the statutes of the Mental Health Commitment Act, the-- exactly the same, the same principles. And now it is that-- at this point, I think the concept is that it does not mean that the more, the more mental health professionals, the more EPCs. To the contrary, the more mental health professional, the availability, we can determine whether or not EPC is appropriate. Now let's look at the need. I have provided two maps to you. One is LIMHP-- this is provided by the credentialing department --and the other are the psychologists. The psychologists are already in the statutes and you will compare the two. You can see that one-fifth of the counties-- looked at the LIMHP-- one-fifth of the counties in Nebraska do not have mental health professionals. And another one-fifth of the counties only have

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one mental health professional in the whole county and that one mental health professional is LIMHP. And so if you add on the workforce, you know, pass this bill eventually-- maybe not this year-- pass this bill, then you increase the workforce actually almost more than fourfold. And I also want to add, yes, 11 years ago, the law has already passed that LIMHP eligible to sit on the mental health commitment boards.

LATHROP: OK.

ANNE BUETTNER: So we are already qualified that way.

LATHROP: Very good.

ANNE BUETTNER: OK.

LATHROP: Any questions? I see none, thanks for being here today.

ANNE BUETTNER: OK.

LATHROP: Is anyone else here to testify as a proponent? OK. Good afternoon and welcome.

THOMAS BLANTON: Afternoon. Hello, my name is Thomas Blanton, that's T-h-o-m-a-s B-l-a-n-t-o-n. I'm here to voice my support for this bill. I've struggled to figure out exactly what to say today, as this topic of mental health is very personal to me. Unfortunately, I spent the first 21 years or so of my life undiagnosed with a few neurodivergent disorders to include autism, ADHD, bipolar disorder, and social anxiety disorder. As you could imagine, being undiagnosed with neurodivergent disorders and going without treatment for that long can take its toll. On the morning of June 2, 2012, my grandfather passed away. It wasn't a surprise, but it was still devastating for me. Unfortunately, I started to experience a mental health crisis because of the stress of the situation and my underlying undiagnosed, untreated neurodivergent disorders. This led to a domestic dispute with my then roommates at the time and the Lincoln police were called and I was placed under emergency protective custody. Fortunately, I remained cooperative throughout the initial incident, but when I arrived at Bryan LGH Hospital West Campus, I became uncooperative. I would like to take a moment to say yes, I should have remained cooperative. However, this was a mental health crisis and I was not myself. I refused to exit the police vehicle and Officer T. Schmidt became impatient. Relying on memory, I was upset that I did not understand what was going on and wanted an explanation. Officer T. Schmidt called for backup, and Officer D. Wiggins responded to the

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call. When Officer Wiggins showed up, in my state, I demanded an explanation. This is when the officers physically pulled me from the vehicle and with my hands cuffed behind my back, I landed on the parking lot pavement. The officers then began to attempt to take me into the hospital, but I resisted. The officers then repeatedly slammed me into the ground, one officer yelling loudly that I tried to trip them, which I contest to this day. Finally, one of the officers picked me up, as I'm quite small, and slammed me to the floor of the nurse's station. At this point, on top of a mental health crisis, I was afraid for my life, but I was also completely submissive. This incident had a huge influence on the process to come and for many years, I had a deeply held mistrust for the police. After many years of reflection, however, I came to believe that perhaps the police officers were not trained in de-escalating and responding to mental health crises. If I were to hazard a guess, their training was more aimed towards neutralizing altercations. If this is true, looking back, the officers did their jobs. I believe that if a mental health professional had been there, able to assist in that situation at least, a much different outcome could have been accomplished. In the end, I consider myself fortunate. As time passed, I worked to get my life back on track. When I went back to college the following spring, I received a lot of support from not only friends and family, but from the university staff at UNL, notably the dean of students, Dr. Dr. Matthew Hecker and Dr. Gail Lockard. I should mention that a few months before this incident, I was also seeing Dr. Gail Lockard for a mental health crisis and she actually convinced me to check myself in for an evaluation and she also helped me make me aware of my neurodivergent disorders. I finished my degree, married a good woman, and I worked in the United States Veterans Benefits Administration for the last six years. Thank you for your time and letting me tell my story. If there are any questions, I'd be glad to answer them.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you so much for coming, Mr. Blanton, I know it's a difficult story to tell, but I think, I think this is one of the most brave stories I've heard come forward in all my eight years in the Legislature. I thank you for putting a face to mental health issues, helping us to remember that these are physical issues and that we have done a lot to change the mental health access since the late '90s when we closed a lot of the institutions that were mistreating people and now we end up arresting those people with mental health issues. So it's really important that Senator McDonnell brought this bill and I hope that you feel really-- I'm so grateful for your strength and power to come forward and tell the story. Too often, some

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of this has been swept under the rug. Too often-- you know, it's a chemical issue within our brains. It's nothing to be embarrassed about. It's something we have to deal with. Most of us have some relation or somebody that has this in our family and I, I cannot tell you how grateful I am for your power and your courage to come forward on this.

THOMAS BLANTON: Thank you.

PANSING BROOKS: Thank you.

LATHROP: Yeah, thanks, thanks very much for being here.

THOMAS BLANTON: Thank you.

LATHROP: Any other proponent testimony? Anyone here to testify in opposition to LB909? Anyone in the neutral capacity? Seeing none, Senator McDonnell, you are free to close. We do have position letters, four of them; two are proponent and two are opponents to the bill. With that, Senator McDonnell.

McDONNELL: I know you have a busy agenda and it's Friday. I just want to take a couple of moments to make sure that you knew this-- we're not mandating these, these mental health professionals to go through this training to become certified. But if they do, if you look in the bill, it is going to be detailed and intense training for them to go, go through. And I'm willing to meet with you as individual senators and discuss how we can improve this bill and that's all I have.

LATHROP: OK. I should mention we also have two neutral testifier letters. Did you have a question?

GEIST: No, I didn't.

LATHROP: Oh, OK. Thanks, Senator McDonnell. That will close our hearing on LB909 and bring us to Senator Sanders and LB1171. Good afternoon. Welcome.

SANDERS: Good afternoon, Chairman Lathrop and committee members. For the record, my name is Rita Sanders, R-i-t-a S-a-n-d-e-r-s, and I represent District 45, which includes much of the Bellevue-Offutt community in eastern Sarpy County. LB1171 was brought to me by the Nebraska Association of County Officials and the Clerks of the District Court Association to create statewide consistency in the role of jury commissioners. It would require the clerk of the district court to serve as jury commissioner in all counties. I'd like to thank

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the Nebraska Association of County Officials, the Clerk of the District Court Association, the Sarpy County Election Commissioner, Emily Ethington, and Sarpy County Attorney, Lee Polikov, for their help with this piece of legislation. As you may know, jury commissioners help coordinate jury members and efforts. Existing laws requires the clerks of the court to serve as jury commissioners in counties of 70,000 population or less. In larger counties, the district court judges determine whether the clerk of the district court or election commissioner serves as jury commissioner. In practice, Sarpy County is the only county in which the election commissioner serves as a jury commissioner. This is odd because the election commissioner job is to run and coordinate the county's election. LB1171 would strike population references so the clerk of the district court serves as a commissioner in all counties. Additionally, the judges of the district court will retain the ability to designate additional compensation for the clerk of the district court, not exceeding \$3,000 per year in counties exceeding 175,000 residents. Again, the goal of this change is to simplify the system and harmonize Sarpy County with its most populous neighbors. We received this piece of legislation in January and we reached out to the Sarpy County Election Commissioner immediately for her opinion. Commissioner Ethington has no objections. Initially Sarpy County Attorney Lee Polikov was going to send us a possible amendment to create an official job description for the election commissioner's position. However, he elected to tackle that issue in a different time. Following me, you will hear from Elaine Menzel of the Nebraska Association of County Officials. After that, Dori Heath, the Sarpy County Clerk of the District Court, and Janet Wiechelman, the Cedar County Clerk of the District Court, will offer additional testimony. Their testimony will include some of the history behind the jury commissioner statute. Thank you for your time and attentiveness and I welcome the opportunity to answer any questions you may have.

LATHROP: I do not see any questions. It must be perfectly clear.

SANDERS: They'll testify and if you have any more questions, they'll--

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

SANDERS: I'll waive closing.

LATHROP: OK, very good. Thank you, Senator. Have a great weekend. How many people are going to testify on this bill by a show of hands? Looks like three. OK, we'll let Senator Brandt know. OK.

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ELAINE MENZEL: Chairman Lathrop and members of the Judiciary Committee, for the record, my name is Elaine Menzel, E-l-a-i-n-e M-e-n-z-e-l, and I just-- I'm here today on behalf of the Nebraska Association of County Officials in support of LB1171. I-- Senator Sanders did a fantastic job giving you a preview of what our desire was for this legislation. We certainly want to extend a great deal of appreciation to her and Senator Pansing Brooks previously for working on what we've termed the jury bill over the course of two to three years and of course, the Judiciary Committee for helping us with that. Those are essentially the contents of my message. And as the senator testified, we do have a couple of clerks of district court that can tell you more about the rationale for this. If there's any questions, I would be glad to try to answer them.

LATHROP: I don't see any.

ELAINE MENZEL: Thank you.

LATHROP: Thanks for being here., Ms. Menzel. Next proponent. Good afternoon.

JANET WIECHELMAN: Good afternoon, Chairman Lathrop and Judiciary Committee members. My name is Janet Wiechelman, J-a-n-e-t W-i-e-c-h-e-l-m-a-n. I am the Clerk of District Court for Cedar County and the legislative liaison for the Clerk of District Court Association. I'm here as a proponent for LB1171. I thank Senator Sanders for bringing this legislation on our behalf. Several years ago, our association to take the challenge of looking at the jury statutes and putting them in chronological order, adding terminology and adding the process for a jury process. When we looked at this particular statute, this particular statute, 25-1625, we talked about it, as at that time, Support County was one of the counties still not being done within the clerk of district court. We believe this is a function of the clerk of district court office. When we did that, LB--e sorry. Excuse me-- did the legislation, we did further talk with the clerk of district court at that time of Sarpy County. I asked her if she'd be willing to take the position of the clerk of the jury commissioner. She declined at that time so we left the statute as it was and we thank Senator Pansing Brooks for that effort, four years of trying to get that legislation done. We thank you for that. I include with my statement LB-- statute 25-1625, which was then changed to 1647, just to show you how things have changed throughout the years, starting back in 1961, when it was actually the chief probation officer who handled the jury commissioner duties and some of those counties. In 2016, Douglas County took the transition to move it to

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the clerk of district court and Lancaster County, in 2016, moved it to the clerk of the district court. So as I said, Sarpy County is still the only county that is not being handled within the clerk of district court office. LB71 [SIC] provided that it is the clerk of district court and it does still allow the positions of the three largest counties to allow a clerk of district court to be compensated additionally if the district court judges concur with that situation. We ask LB71 [SIC] be advanced to the floor and I thank the committee for the opportunity.

LATHROP: Very good.

JANET WIECHELMAN: Thank you.

LATHROP: I don't see any questions, but thanks for being here. Good afternoon and welcome.

DORI HEATH: Good afternoon, Senator Lathrop and the Judiciary Committee and thank you, Rita, for bringing this bill. OK, Dori Heath, D-o-r-i H-e-a-t-h. I am the current District Court Clerk in Sarpy County and I have a unique perspective, as I was a district court clerk in Colfax County for four terms prior to moving to Sarpy. And in that capacity, I was also the ex-officio jury commissioner and then I moved to Sarpy County and worked under the previous district court clerk and realized that that's not a function of that office and believe that definitely Sarpy County should become the final county in the state of Nebraska to have those duties as jury commissioner under the district court clerk.

LATHROP: Makes perfect sense to me.

DORI HEATH: OK.

LATHROP: I don't see any questions.

DORI HEATH: Thank you so much.

LATHROP: Thanks for being here. Any other proponent testimony? Anyone here in opposition to LB1171? Anyone here to testify in a neutral capacity? Seeing none, we have received no position letters. And Senator Sanders, did you waive close or did you want to close? She waives close. That will close our hearing on LB1171 and bring us to the next bill, which is LB1009 and Senator Brandt. If you're going to testify on this bill, if you want to come up and you can take the front row so we can kind of keep the hearing moving along. How many people intend to testify on this bill? OK, keep your hands up if you

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don't mind. One, two, three, four, five, six-- about eight or nine, if you can let Senator Machaela Cavanaugh know. Senator Brandt, welcome to your Judiciary Committee.

BRANDT: Good afternoon, Chairman Lathrop, members of the Judiciary Committee. I am Senator Tom Brandt and I represent Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. This is my last bill being heard in, in the Judiciary Committee under Chairman Lathrop. I want to thank him for four years of leadership, guidance, and levelheadedness. He will be greatly missed, but I wish him the best. Today, I'm introducing LB1009, a bill to adopt the Domestic Abuse Death Review Act. LB1009 will establish a statewide domestic abuse death review team that will evaluate and analyze domestic violence related fatalities and develop appropriate recommendations through an annual report to help prevent future deaths. This bill provides specific guidelines for who is to be on the review team with which the Attorney General's Office will appoint as the agency responsible for the administration of the team. It is essential that strong parameters are set in statute for a domestic abuse death review team to operate effectively. And LB1009 includes the necessary guidelines to accomplish this, including ensuring confidentiality and establishing consistency and continuity over time. The fiscal note of \$80,000 a year to hire an administrator with benefits is necessary for the team to have the best chance of success. Federal grant funding may be available to cover the costs of the domestic abuse death review team administrator. Establishing a state domestic abuse review team is not a new idea. As of 2021, 41 states had active statewide domestic violence fatality review teams, leaving Nebraska as one of only 9 states that do not have one. With the exception of Wyoming, every state surrounding Nebraska has one. Since 2012, the average number of domestic violence related deaths annually in Nebraska is 14. Make no mistake, domestic violence is a statewide problem that demands our immediate attention. From 2017 to 2020, 84 out of 93 counties in Nebraska reported at least one instance of domestic assault. And in that same timeframe, over 30,000 domestic assault instances were reported across Nebraska. Data provided by the Nebraska State Patrol shows that from 2012 to 2020, 127 individuals died as a result of domestic violence, with 36 of those deaths occurring in 19-- excuse me, in 2019 and 2020 alone. Domestic abuse related deaths are devastatingly common, and we can best honor the lives of victims and their families by learning from these experiences and making improvements in the way our systems and agencies respond. I want to thank Attorney General Doug Peterson and his team, specifically Chief of Staff Josh Shasserre, for their cooperation and

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input. We have worked with the Attorney General's Office on this bill and are amending it after the hearing to implement their edits. They have really stepped up to improve the bill and I'm grateful for it. I am introducing LB1009 for the family of a domestic violence victim who came to me to ask what I could do to prevent what happened to their loved one from happening to anyone else. And the one way to address their concerns after consultations with groups that work with domestic abuse victims was to create a domestic abuse death review team. There will be others speaking after me who will talk about their experiences with domestic abuse and the changes that will be made to the introduced bill and how the review team will work. With that, I would be happy to answer any questions you may have.

LATHROP: OK. I don't see any questions at this time, Senator, but thanks for introducing LB1009.

BRANDT: All right.

LATHROP: And with that, we will take proponent testimony.

NICK ZADINA: Chairperson Lathrop and members of the Judiciary Committee, my name is Nick Zadina, N-i-c-k Z-a-d-i-n-a. I am the freedom from violence coordinator at the Women's Fund of Omaha, and the Women's Fund testifies in support of LB1009, a bill that seeks to prevent future domestic violence abuse deaths by analyzing the incidence, causes, and contributing factors of these deaths and then developing recommendations based on an annual report of their analysis. In order to solve problems, you have to talk about them. From 2012 to 2020, there were 127 domestic violence related deaths in Nebraska. In 2019 alone, there were 23 domestic violence related deaths. Bringing together a team of people, including investigators, attorneys, medical professionals, advocates, and those with lived experience to review the elements of each case where a death occurred and then provide recommendations is an important step towards preventing future domestic abuse deaths. Nebraska already has a team to review child deaths. Nebraska already has a team to review maternal deaths. It is time for our state to review domestic abuse deaths. Forty-one other states already have these teams in place, and the teams in these states have provided numerous recommendations which have changed the way the work is done and potentially save lives. In Montana, their domestic abuse death review team began a program called Hope Cards, which they issued to victims who were granted protection orders. These Hope Cards allow someone who has been granted an order of protection in one jurisdiction to easily prove it in another jurisdiction. They are wallet-sized, compact, and intended as a more

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convenient way for individuals to keep relevant information about their protection orders with them at all times. In Maryland, the death review team found that there was a gap in domestic violence services for the elderly, so they began to connect with professionals in the community who work with the elderly to provide resources and education to the population who seemed especially vulnerable. This included collaboration in service provision and training with medical professionals, senior living facilities, and the Department of Aging. In Kansas, the team recommended that research-based lethality risk assessments be used in all investigations and when victims apply for protection orders. This was recommended when the team noticed that in Johnson County, the pilot of a Lethality Assessment Program may be proving effective. The year before the Lethality Assessment Program began in 2011, there were five domestic violence related homicides in Johnson County, and in 2015 there were zero. We ask that you vote in support of LB1009 to give Nebraska the possibility of preventing future domestic violence related deaths. Because if we could even save one life, that'd be worth it. Thank you.

LATHROP: OK. Well, we appreciate your testimony, Mr. Zadina. I don't see any questions at this time. Next proponent. Good afternoon.

ANDIE KOCH: Hello, I'm Andie Koch, first name spelled A-n-d-i-e, last name spelled K-o-c-h. I'm in support of the LB1009. My mother, Brooke Koch, was a longtime victim of domestic assault and was ultimately murdered by her abuser, Jason Arnold, on April 6 of last year. Her passing, her passing left behind my two younger sisters and myself, as well as many other family members and friends. During the course of their 12-year relationship, my mom had no control over her own life. It started off as emotional and mental abuse. Later on in their relationship, the abuse became more physical. My mother was always reminded how quickly her life could end in various ways. She lived in constant fear and was hesitant to leave the relationship because of the threat she was receiving against her life. Jason would always tell my mom that a protection order was nothing but a piece of paper to him. After Jason had admitted to using methamphetamine, my mother refused to have a drug-using, abusive criminal living in her house and around her children. In August of 2020, Jason was charged with domestic assault, terroristic threats, and several other criminal charges for the assault on my mother when she told him that he needed to leave and that the relationship was over. Throughout the next four months, Jason would stalk my mother and make indirect and direct threats via social media accounts. On December 24, 2020, Jason once again threatened the life of my mother in front of myself while picking up my youngest sister from a Christmas celebration. This

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threat was documented by myself by audio recording. After this incident, a second protection order and arrest was made on Jason. On this occasion, he was allowed to drive himself to the Gage County Sheriff's Department from his workplace in Endicott, Nebraska. The drive allowed him enough time to contact his mother to place bail before he even arrived at the sheriff's department. Once again, allowing an abuser potential access to their victim. After this protection order was put in place, Jason had no contact with my mother until the morning of April 6, 2021, which was the day he premeditated her murder. My mom was shot to death in her own home by the person she worked so hard to protect herself from. Because of these real-life experiences, I strongly believe Nebraska needs more laws surrounding domestic violence and protection orders. LB1009 is the first step in protecting future victims and in preventing future domestic assaults resulting in death. Having a team of experts to make recommendations and review cases of domestic assault would be a huge benefit to the state of Nebraska and could potentially save a countless amount of lives. Creating this team would be a great step in preventing other children from losing a parent and having to feel the pain my family and I live with on a daily basis. Please consider LB1009 for the safety of Nebraska's residents. Thank you.

LATHROP: OK. Well, I appreciate you being here today. Thanks for sharing that with us. Next proponent. Good afternoon and welcome.

CHAD CHRISTIANSEN: Welcome. My name is Chad Christiansen, C-h-a-d C-h-r-i-s-t-i-a-n-s-e-n. In July of 2020, my sister was killed. My sister became a victim of domestic violence. Our world turned upside down. She had been-- spent months of abuse to her, to her victim. She had done all-- she had filed all the necessary paperwork that she needed to do and done everything that she could legally within her rights to do so. And she still fell victim to the system. As you can imagine, our family was devastated. We're angry. We're angry at, at the individual. We're angry at the system. We felt like it had failed her. Fast forward not even eight months, and we hear about the same situation, a similar situation that happened with, with this family back here that we-- that you just heard from and our family reached out to their family and said-- we, we listened to each other's story and we said, hey, something's got to change. As we're listening to this process-- listening to their story and preparing our story, all we could come to the conclusion is that there is enough similarities that we knew something had to change. The system had done-- something is not working. So we reached out to anyone we want-- we could, we could get a hold of. We reached out to senators. We reached out to groups, the world-- the Women's Fund, the Coalition to End Domestic

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Violence. We reached out to anyone who would listen to our story because we knew something had to change. Our, our family member's death could not be in vain. We had to fix it. And so I've always thought and we've always felt that if you're going to complain about a problem, if you can't provide a solution, then you're just as equally part of the problem. And this LB1009 is a step-- is our solution, is a step in the right direction. In our eyes, this is the-- this lays the foundation for the ability to, to make the recommended changes that we need to fix the system that's so broken. A group of individuals putting domestic violence at the forefront that has an issue where they're turning in annual reports and reviewing similarities between cases, in my eyes, is a significant improvement to the way the system is now. So for me and our family, you know, this is just step-- you know, for us, this is step one in, in domestic violence reform in the state of Nebraska. It's important to us that we get this bill passed so that we can continue to push for a safer environment regarding domestic violence, at least in Nebraska, to our citizens in Nebraska.

LATHROP: OK. Thank you. I don't see any questions. But we very much appreciate you being here and your advocacy.

CHAD CHRISTIANSEN: Thank you.

LATHROP: Next proponent.

KIRBY WILLIAMS: Afternoon.

LATHROP: Good afternoon and welcome.

KIRBY WILLIAMS: My name is Kirby Williams. I'm an enrolled-- K-i-r-b-y W-i-l-l-i-a-m-s. I'm an enrolled citizen of the Cherokee Nation. I'm a violence prevention expert working to address intimate partner violence against Native Americans and tribal communities here in Nebraska and across the U.S., and I'm a survivor of intimate partner violence and sexual assault. I am testifying here today in support of LB1009 and the formation of a domestic abuse review team. The provisions in the bill would be a beginning step to addressing the crisis of missing and murdered Indigenous people. I have previously worked on the LB154 task force addressing missing Native women and children here in Nebraska, and I believe this review team would begin to address a key contributing factor to Indigenous people who are murdered. More than four in five Native Americans, both women and men, will experience some form of violence in their lifetime. Homicide is consistently ranked in the top leading causes of death for Native American women and men. In 2018, the state of Nebraska ranked seventh

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for the highest number of missing and murdered Indigenous women and girls cases across U.S. states and the city of Omaha, Nebraska, ranked eighth in the top ten U.S. cities for these cases. As of 2020, the Sovereign Bodies Institute, which has one of the largest databases for missing and murdered Indigenous women, girls, and Two-Spirit individuals, has logged 97 cases in Nebraska. The average age of these victims is 20 years old. And while these statistics are staggering and devastating, just knowing the prevalence at which this occurs is further exacerbated by the response or lack thereof for these cases. In the last two years, I have received numerous calls to assist in the aftermath of the deaths of Native women in Nebraska murdered by their intimate partners. Ashlea Aldrich, Kozee Decorah, and Shaleigh Sovey were a few of these cases. They were more than the statistics they fit into. They were young mothers and they were taken from their young children, loving families, and communities that are devastated by their loss. Ashlea, Kozee, and Shaleigh were killed on rural reservations in Nebraska and urban metro areas in Nebraska. Their perpetrators have faced only reduced charges of manslaughter or no charges at all. That is not justice. I believe that LB1009 would begin to take a crucial first step in addressing the ways in which the system and processes currently in place failed these Native women and begin to address the ways in which to prevent future harm and loss. The provisions in this bill that would include tribal representation both consistently through a board position and through ad hoc additions for cases involving Indigenous victims are incredibly important if we are to effectively address this issue ensuring that we as Native people have representation and that our voices and the unique dynamics that put the Native American population at such a high risk for intimate partner violence and related homicides. I also believe that these provisions will lead to better outcomes for many across the state of Nebraska. As we begin to address the issues that affect our most vulnerable, everyone benefits. Thank you for your time.

LATHROP: Very good. I-- there's-- Senator Pansing Brooks has a question.

PANSING BROOKS: Thank you. Thank you for-- thank you very much for bringing this bill, Ms. Williams. I brought legislation regarding missing and murdered Indigenous women previously, and I'm glad to see this is a different take than we had attempted before, and I hope that by placing, you know, somebody from the tribes, the tribal areas on the board would be helpful. I, I still worry that there are issues regarding tribal law versus Nebraska law that we really do need to work out.

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KIRBY WILLIAMS: Correct.

PANSING BROOKS: And I, I just hope you keep fighting on this. So thank you very much.

KIRBY WILLIAMS: Thank you for your work.

LATHROP: I don't see any other questions.

KIRBY WILLIAMS: Thank you.

LATHROP: Thanks for being here. Anyone else here to testify as a proponent? Good afternoon.

KAREN BELL-DANCY: Good afternoon, members of the Judiciary Committee. I am Karen Bell-Dancy, K-a-r-e-n B-e-l-l hyphen D-a-n-c-y. I serve as the executive director of the YWCA of Lincoln. YWCA of Lincoln has been in the community over 136 years and we are part of a national network of over 222 chapters across the nation. We are in favor of LB1009 and I won't go through reading all of the comments because a lot of what we have written has already been stated, but we believe that this is necessary, this review team. We have seen such an increase of domestic violence incidences and cases coming into our agency. And although we don't have a formal program to assist women with domestic violence, they believe that coming to the YWCA can lead to resources. And so we've been working to try to create a network to make sure that we help them get the-- get to the appropriate resources and the outreach that they would need. So we are very much in favor of this review team. Throughout the pandemic, the number of cases of domestic violence has increased. We also receive calls from our national office of women that have reached out into other areas across the nation for YWCA and for women in the Omaha area, which there is no longer a YWCA. But of course, there are other agencies that address these issues, but they come to us. So again, we would like to say that we are very much in favor, and we thank Senator Brandt for bringing this forward.

LATHROP: OK. Senator Pansing Brooks.

PANSING BROOKS: Thank you. Ms. Bell-Dancy,--

KAREN BELL-DANCY: Yes.

PANSING BROOKS: --thank you for continuing to be a great advocate for women in the community and across the state. You have been amazing and you always show up--

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KAREN BELL-DANCY: Thank you.

PANSING BROOKS: --and I, I want to thank you as a woman to another woman. But your, your work has been amazing. Thank you.

KAREN BELL-DANCY: Thank you. I appreciate that. Yours as well.

LATHROP: All right. Thanks for being here.

KAREN BELL-DANCY: Thank you, Senators.

LATHROP: Next proponent. Good afternoon and welcome.

ANDREA EDWARDS: Good afternoon, Senator Lathrop and members of the Judiciary Committee. My name is Andrea Edwards, A-n-d-r-e-a-E-d-w-a-r-d-s. I am the director of Heartland Housing Sanctuary at Heartland Family Service. I am testifying today in favor of LB1009 on behalf of our agency and the clients we serve, and would like to extend our appreciation to Senator Brandt for bringing this bill forward. Creating a review team to investigate the circumstances of domestic violence and the deaths that occur as a result of intimate partner violence is a solid first step towards preventing similar incidences from happening in the future. We expect that there is likely little controversy into forming a review team. After all, each of us has undoubtedly known someone that has narrowly escaped an abusive relationship who had to or should have gotten a protection order against their violent partner or, even worse, who has been killed when they tried to leave their abusive relationship. One of the survivors that we most recently worked with was not only a survivor of trafficking, but even more horrifically her trafficker was her intimate partner. The cycle of domestic violence was evident by signs of manipulation and intimidation, as well as extreme physical and sexual abuse. Each time the survivor accessed our services, it was extremely dangerous for her, and she almost always needed immediate medical attention. The most recent time she accessed our services, she was finally ready to file a protection order and press charges. However, due to the nature of this type of violence, there is a strong chance that she will return to this relationship as a means of survival. Statistically, most survivors return to their abusive partner five to seven times before they finally leave. But when they leave, that is the most dangerous time for them. It is when they are most likely to be killed. Our hope is that when the review team is formed, that a holistic view is taken and serious thought is given to passing bills in the future that will make people in abusive relationships safer. For instance, if the team reviews data and finds

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that most deaths caused by domestic violence were committed with firearms, then we expect that to be addressed in legislation. If the, if the team finds that child abuse and neglect coupled with substance abuse are prevalent during an investigation for domestic violence, which I can assure you they are, then I hope that our decision makers will take this into consideration when making laws about child welfare or access to substance abuse treatment. We support LB1009 and hope that you do as well. Please pass it as a committee in efforts to make our clients' lives safer and to prevent them from ever becoming a statistic in our community that was impacted by intimate partner violence. Thank you for the opportunity to share today, and I would be happy to answer any questions.

LATHROP: I don't see any questions, but thanks--

ANDREA EDWARDS: Thank you.

LATHROP: --for being here. Good afternoon.

CHRISTON MacTAGGART: Good afternoon. My name is Christon MacTaggart, C-h-r-i-s-t-o-n M-a-c-T-a-g-g-a-r-t. I am the executive director of the Nebraska Coalition to End Sexual and Domestic Violence. We're an organization that provides support to the network of direct service programs across the state that collectively provide services to domestic and sexual violence survivors in all 93 counties. We've worked closely with Senator Brandt's office on this bill, as well as with impacted families who started these conversations with us that led to this bill. We've also worked with the Nebraska State Patrol as they currently track domestic violence related fatalities and with the Attorney General's Office, who will also testify today. As Senator Brandt mentioned, they've requested some language changes that I think will make the bill stronger, and we expect an amendment based on those conversations. Any time there's a death related to domestic violence, there's always questions in the community about what happened, what went wrong, and what could have prevented it? And the answers to that are always complex and they're always with differing opinions and they're never easy. The goal of LB1009 is to change that. It would create a process and a team of experts to take a big picture view of what happened and ultimately make recommendations to hopefully prevent future deaths. Although fatalities are currently tracked by the Nebraska State Patrol, there's really no legal mechanism to support access to the full information on them that's needed to completely understand what happened. And really that means much of the information is limited by what's reported in the media and what agencies can legally share or wish to share. So this bill would ensure

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access to information more broadly. Much like the child death and the maternal death teams already do. It will allow-- it'll allow a team of experts to really analyze and look at individual cases thoroughly and then take a big picture lens that looks for consistencies or trends and hopefully provides a blueprint for prevention. Again, 41 other states already do this. Nebraska's had too many domestic violence related deaths and LB1009 is an active step to prevent the next one. So I'm happy to answer any questions, and I urge you to support this bill and vote it out of committee.

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

CHRISTON MacTAGGART: OK.

LATHROP: Appreciate hearing from you once again. Anyone else here as a proponent? Good afternoon.

GEORGE WELCH: Good afternoon. Good afternoon, Chairperson Lathrop and members of the Judiciary Committee. My name is George Welch, G-e-o-r-g-e W-e-l-c-h. I am an assistant attorney general with the Nebraska Attorney General's Office. I'm assigned to the criminal bureau and prosecute crimes of domestic violence throughout the state of Nebraska. I come here today as the representative for the Attorney General's Office in support of LB1009. The state domestic abuse review team will work to prevent future domestic abuse deaths by analyzing the incidence, causes, and contributing factors of domestic abuse. Through collaboration of team members from across the state, systemic gaps in potential policy and legislative recommendations will be identified via an annual report. It is important to understand that cases will not be judged by the team with a Monday morning quarterback analysis where individual efforts by involved parties are criticized and critiqued. Instead, these cases will be studied with a no blame, no shame approach that identifies obstacles and trends from across the state. Our office consulted with Senator Brandt, Christon MacTaggart, and others, and we respectfully have the following recommendations to strengthen the introduced copy of this legislation. A team such as this must have the proper records available for re-- for review to successfully carry out our mission. It is important to broaden the records available to the team to ensure all facets of these complex domestic violence cases can be analyzed. We must clearly identify when records may be made available to the team. In many cases, this will be upon conviction or acquittal of the alleged perpetrator or death of said perpetrator. This clear timeline will preserve the integrity of the criminal justice process and the rights of the state and accused. We must ensure team members represent both rural and metropolitan

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centers of our state, specifically identifying law enforcement officers and advocates who cover those differing jurisdictions. Must identify a fiscal year time period within which the team will operate which would allow for a report to be submitted in mid-August. This should give legislators enough time to work with various stakeholders to potentially address recommendations made by the team. We need to further clarify the definition of domestic abuse death as it pertains to the suicide of a decedent victim. And we must articulate consequences of failing to comply with the attorney general subpoena, as outlined when requesting record-- various records. I'm happy to discuss these and additional recommendations with Judiciary at the end of my time or at some future date. We will also continue to work with Senator Brandt and other interested parties to ensure that the legislation regarding this fatality review team adheres to national best practices while fitting the needs of Nebraska. Crimes of domestic violence tear at the fabric of society. I am proud to work alongside those who continue to push for new ways to break this vicious cycle and save lives. I thank Senator Brandt, his staff, and so many others who worked diligently on this legislation. I'm happy to answer any questions members of this committee may have at this time. Thank you.

LATHROP: Tell me how this goes from studying what happens in these circumstances to preventing them.

GEORGE WELCH: That's a very good question. So I, you know, had an opportunity to review annual or biannual reports from several states. I think, first of all, obviously identifying the problems, working across various domestic abuse cases to figure out what those problems identify is, is obviously the first step and then working with various stakeholders and other interested parties to get that-- to address those issues is, is the next. So sometimes that may be outreach and education to law enforcement officers, advocates, court staff, whatever else.

LATHROP: Do they really have an opportunity to prevent anything? So if, if you reached out to advocates or education, this is a very personal kind of a thing. Right? So some-- and at the risk of stereotyping this, some woman is in a relationship with someone who's an abusive man, right, and you-- there are several of these a year, you study them and you find out methamphetamines, drugs, alcohol, mental illness seem to be at the root of the problems. How does that translate to action steps to prevent the next one?

GEORGE WELCH: Well, I mean, it would depend on the step, whether that means funding, whether that means more drug treatment programs across

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the state, whether that means increasing batterers intervention programs, whether that means looking at maybe protection orders and how protection orders are responded to by local law enforcements, prosecutors, the courts. Whether that means working with the legislator to identify legislative policies, including, you know, funding or increase penalties, anything along those lines.

LATHROP: I appreciate the goal of this and what you're trying to do. I'm, I'm just listening to the testimony and, and I appreciate everyone's goal to, to try to make fewer of these things happen in the state, less domestic violence. I just didn't know if you study 23 cases that happen in a year, whatever the number is, how that translates into--

GEORGE WELCH: I mean, I think understanding what caused these issues may help prevent them in the future. Just kind of a history. You know what they used to tell us in history classes. So understanding what caused those may help prevent them in the future, you know, identifying protection orders, increase sentences, bail reform. Any of those types of things are, are we're seeing trends in those problems or there's gaps in systems elsewhere. You know, that would be the goal of a team like this would be to address those issues through legislation, through outreach, through education, through anything along those lines.

LATHROP: Have they been effective in other states?

GEORGE WELCH: Yes.

LATHROP: And do they see, like, the number of domestic violence. Because whatever these remedies are, I assume they prevent other forms of violence that don't lead to death. But do, do they see a decline?

GEORGE WELCH: I'm sorry, are you talking about maybe not in, in, in just overall domestic violence--

LATHROP: In states that have these kind of reviews.

GEORGE WELCH: Are they seeing a decline in the deaths, as well as--

LATHROP: Deaths, whatever measure you want to use for domestic violence.

GEORGE WELCH: Yes, I, I believe so. Yes.

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LATHROP: OK. All right. Well, I appreciate you answering those questions for me and for being here today.

GEORGE WELCH: Thank you.

LATHROP: Anyone else here to testify as a proponent of LB1009? Anyone here to testify in opposition to the bill? How about in the neutral capacity? Seeing none, Senator Brandt, you may close. We do have position letters, 18 are proponents and none in the neutral or opposition.

BRANDT: Well, looks like we got a big job ahead. I'd like to thank everybody that testified today. We caught a few ideas. You know, Nick from the Women's Fund talked about what happens in Montana with the Hope Cards. The testimony of Andie and Chad vividly shows what we're trying to prevent here and reduce in Nebraska. Also, Kirby with the tribes. You know, this is a problem across everywhere in the state. Urban, rural. Let's see what else we've got. I appreciate Mr. Welch's testimony with the Attorney General's Office to improve this bill by broadening records availability, improving the timeline, improving the subpoena authority. The fact of the matter is nobody wants to be here today. Everybody is brought here by circumstances. This bill is about statistics. It's about data collection. You know, we as a state have failed the victims. But if we can keep any future victims from having this happen to them, it would be great. I mean, this is about looking for correlation and patterns. And then once we do that, that team will make an annual recommendation to the Legislature on what possible policy or legislation would be going forward. And with that, I would be happy to answer any questions.

LATHROP: Senator DeBoer.

DeBOER: Mine is less a question. It's that I have a bill out on General File that's been prioritized on the child and maternal death review panels--

BRANDT: OK.

DeBOER: --that might be a potential vehicle if you are able to get this done.

BRANDT: We are very interested.

DeBOER: OK.

BRANDT: OK.

LATHROP: OK.

BRANDT: All right.

LATHROP: Collaboration happening right here during a hearing. OK, thank you, Senator Brandt. And that will close our hearing on LB1009 and bring us to Senator Machaela Cavanaugh and LB1216. Senator Cavanaugh, I was wondering how we filled the room. Apparently, it's your bill.

M. CAVANAUGH: I don't know. That last bill just took a few.

LATHROP: Yeah, yeah. All right. Well, we'll look forward to your introduction. Welcome to the Judiciary Committee. You may open on LB1216.

M. CAVANAUGH: Thank you, Chairman Lathrop and members of the Judiciary Committee. I stand for correction. I was here last week and I thought that was my last bill in Judiciary, but here we are yet again. I promise this is my last bill in Judiciary and my last bill of the session so you will not see me in this room again.

PANSING BROOKS: We'll believe it when [INAUDIBLE].

M. CAVANAUGH: My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, representing District 6 in west-central Omaha, Douglas County. LB1216 is an attempt to provide alternative pathways for family members of people with disabilities who are struggling with access to providers. This will particularly be helpful for people in rural communities, families with minor children, and individuals in more unique settings. As we deal with a provider staffing crisis, we know the solution needs funding, but we also need to open opportunities. As cleaned up-- oh, I apologize. I have-- I'd filed an amendment previously and now I have another amendment so I apologize-- to that so this is the white-copy amendment that we're working off of. So as cleaned up by my amendment that's being distributed right now, LB1216 will specifically target family member guardians. Nebraska has been one of the rare states to restrict this type of caretaker and many surrounding states like Kansas and Colorado do allow for it. Independent providers who are guardians and have power of attorney are providing specialized nursing level care or above. They are filling a huge gap currently in the marketplace. As providers are short staffed and have difficulty finding new staff due to low reimbursement rates, we must evolve how our developmental disability system operates. Currently, many providers are not taking on new clients, providing

sporadic services, or even removing clients. This leaves families that are all-- already have a Medicaid waiver budgets into their budgets with no place to take their child or dependent. This frequently takes one parent out of the workforce because they can't depend on steady staffing. The original language of LB1216 was broader than the intention and this amendment should offer a more targeted exemption expectation. It replaces the entirety of the original bill, leaving the current guardian structure in place and creates a subset of family member guardians who may also work as independent providers and who may be subject to increased oversight by the Office of Public Guardian. Sorry. There's one thing we need to change yet, though. The Office of Public Guardian does not currently oversee private guardianships and since the point of the bill is to give a limited number of family members who are guardian status as a provider, the oversight should come from the Department of Health and Human Services. I believe we need to find a way to increase the provider workforce. This bill and amendment is just the start of how we can deal with our disparity in access to care. I would like to just note that this has been a very spirited conversation in the community of developmental disabilities and-- as you can see-- and we're going to hear both support and opposition to this bill. And I want to assure the committee that I am working with everyone involved and unless I have an amendment that resolves that, I probably will be bringing a resolution to continue this work over the interim. But I am excited to hear from everyone and for you to hear from them as well. I'll take any questions.

LATHROP: Senator Cavanaugh, is this about having family members who serve as guardians being compensated through the Medicaid process?

M. CAVANAUGH: Yes.

LATHROP: OK.

M. CAVANAUGH: Yes.

LATHROP: Currently, that doesn't happen. They have to have a-- do they have to have an outside provider--

M. CAVANAUGH: Yes.

LATHROP: --and we no longer let family members do it?

M. CAVANAUGH: So family members aren't compensated.

LATHROP: In the past--

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M. CAVANAUGH: Whether they do it--

LATHROP: Has that always been true or was there a time when they were compensated and we no longer do?

M. CAVANAUGH: That is an excellent question I don't know the answer to, but I have a--

LATHROP: Somebody, somebody will know.

M. CAVANAUGH: I have a feeling this next [INAUDIBLE] does.

LATHROP: I, I thought when I was doing the work with the special investigative committee that family members could be compensated, but we changed that rule. But that's your goal, though?

M. CAVANAUGH: That is my goal is to allow--

LATHROP: OK, there's people shaking their heads in both directions. So at least I've started the--

M. CAVANAUGH: You have and we-- I think we have unearthed that I am not the expert, but--

LATHROP: OK.

M. CAVANAUGH: --hopefully a few people behind me will be.

LATHROP: OK. Very good. Well, we appreciate you bringing the bill to us and we'll look forward to the testimony.

M. CAVANAUGH: OK, thank you.

LATHROP: We'll begin with proponent testimony at this time. And by the way, how many people are going to testify so we can let Senator Day know? One, two-- keep them up-- three, four, five-- you got. to move, Edison-- six, seven, eight, nine--

NEAL ERICKSON: About 14.

LATHROP: 14? OK, very good. Welcome.

EDISON McDONALD: Hello. My name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, representing the Arc of Nebraska. We're the state's largest membership organization representing people with intellectual and developmental disabilities and their families. We're here representing those individuals and families who struggle to get care,

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lack proper supports, and are unable to find services. We strongly support LB1216, as amended by AM1949, to allow for family member guardians and power of attorneys to be independent providers. Per Senator Lathrop's question, currently, the status is that family-- some family members can be on the A&D waiver. That is allowed. On the DD waiver, that's problematic. Then we also have to deal with that the-- you can have one person where you have one guardian. So like, say, the husband would be the guardian and then the mother would be the independent provider. And then also, if you don't have guardianship at all, then a family member can still be a provider. So over the last four years, I've heard this issue come up a number of times. But this year in particular, due to COVID and the considerable increase in the number of individuals and families who want this, as evidenced by the folks who are testifying today and the letters who have been submitted, there's really a huge struggle. We've got a providers staffing crisis that we need to figure out how to address and it can't just be put more money towards it. We need to work on modifying our system. Most other states already allow this to happen. Nebraska is a rare exception in this regard. In particular, this is really effective towards folks in rural communities. As you can see on the map on page 2, it shows where provider agencies are and typically independent providers are going to serve family members, are going-- are going to serve people in rural communities. They're going to serve minor children and they're going to serve people in more unique circumstances, as I think you'll hear today. I think-- I really want to focus in on the technical details. We have to make this change according to DHHS provider bulletin 19-02 that limits the type of family member guardians that can be independent providers. Next, I want to address a few concerns that you're going to hear. First, you're going to hear that this would go and allow institutions to end up being a guardian or agencies. That was never the intention. That language is overly broad. The second is that this will increase guardianships. It won't. It'll allow people who are already guardians or POAs to become providers. Third, you're going to hear how this takes away protections from individuals and that is something we want to avoid and mitigate whenever possible. But we have a number of protections, including that we, we do have electronic visit verification, we have service coordinators from the state that are our first line of defense, and DHHS has told us that they plan to get a fiscal intermediary. And I've got my light already.

LATHROP: OK. Well, I don't see any questions at this time, but thanks for being here and your support of the bill. Next proponent. Good afternoon.

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KIM BAINBRIDGE: Good afternoon, Senator Lathrop. My name is Kim Bainbridge, K-i-m B-a-i-n-b-r-i-d-g-e, and I'm testifying as a proponent of LB1216 with amendments. I'm Justin's mom. Justin is 32. He has Down syndrome. I'm also a single parent. Justin received his day waiver in July of 2010. After being on the waiting list for additional services, after seven years, he got the comprehensive waiver. In the 12 years that my son has had a waiver that paid for his services, I have almost never had any help on nights or on weekends and I have used both the mixture of service providers and independent providers. During COVID, my son has regressed. He's lived in his own apartment for eight years. He will no longer stay in his apartment on weekends when he does not have any staff. So guess what? The only provider is me. I currently use both a service provider and an independent provider. There are no backups. I am the only backup if, if either one of my staff cannot help. Parents simply cannot get or find service providers. There is maybe some concern that a parent might abuse the system. Well, let's talk about this. Let's talk about how difficult it is to be an independent provider. Attached to my testimony is a four-page document from DHHS on how to become an independent provider. There are 11 links on that document. That docu-- those links lead to 228 document pages and another 53 links or dropdown boxes. Who knows if you have to read them all. Now to become an independent provider, you need a referral. It comes back to you then you need a Medicaid referral. Then it comes back to you. Then it has to go to Maximus. You have to take first aid and CPR training all on your own time and at your own expense. If you get approved, a service coordinator gives you a service authorization. Now, as a parent, you have to write a program. You have to have measurable outcomes and you have to meet twice a year. Let's talk about electronic visit verification that Edison talked about. On that resource page on the DHHS website, there are ten dropdown boxes and 103 additional links to become paid. You know, as parents, we are overwhelmed with paperwork. We have Nebraska Medicaid renewal every year, Social Security renewal every one to seven years, representative payee report every year, and the granddaddy of them all, guardianship paperwork, which in my case has varied from 30 to 120 pages, all of this because the court system and DHHS allow Judith Widener of Gering, Nebraska, in 2013 to be the guardian of 216 individuals who she embezzled money from. Will someone abuse this system if it's passed? Maybe, but do you punish 99 parents who do all the work to become an independent provider for their child because one person messes up and that one person might not even be a parent. As parents, we cannot find staff through service or independent providers. Allow us to be paid. Thank you.

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LATHROP: OK. Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Ms. Bainbridge, for your testimony. The required paperwork that you're referring to, is that a state problem or is that the federal requires all those questions and all that paperwork? Do you know?

KIM BAINBRIDGE: It's actually both.

BRANDT: OK, so I mean, if, if we got the state-- if you took the state out of this, would it be any better for you?

KIM BAINBRIDGE: For me, it would, yes. You know, my son has Down syndrome. That's a chromosome disorder. This is never going away. The fact that I am constantly preparing reports showing that he still needs help, he's going to need help every day the rest of his life. You know, I have to apply for Nebraska Medicaid every year. I have to prove to Social Security every seven years that that chromosome hasn't went away. The guardianship paperwork is just out of control.

BRANDT: All right, thank you.

KIM BAINBRIDGE: Yes.

LATHROP: Boy, what I've seen since I started practicing law and for-- to get a guardianship and the hoops you've got to jump through or every time somebody fraud-- defrauds somebody, we get another wave of regulations and another wave of bills. Yeah, I get it.

KIM BAINBRIDGE: But Senator Lathrop, it wasn't a parent who did the embezzlement. It was the court system. and DHHS that allowed one woman to have--

LATHROP: Oh, I remember that.

KIM BAINBRIDGE: You remember that. She was from Gering.

LATHROP: Yeah.

KIM BAINBRIDGE: She was the one embezzling. It's not a parent, but we're always the ones punished, Senator Lathrop.

LATHROP: Right. Well, I appreciate your testimony--

KIM BAINBRIDGE: Thank you.

LATHROP: --having you here today. Good afternoon.

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LISA BAXA: Good afternoon. My name is Lisa Baxa, L-i-s-a B-a-x-a. I'm a parent of a non-verbal adult son with autism. He lives with me and my husband in rural Clay Center, which is 25 miles southeast of Hastings. My husband and I have worked hard all of our son's life to provide him with support he needs to live a full and active life while still providing him as much independence as possible. Until recently, my husband and I had powers of attorney rights to our son's affairs. However, due to recent DHHS policy, my husband and I were forced to change this. In doing so, my son has less of support than he needs to be successful, integrated part of his community. Living in rural Clay Center for over 20 years, we wanted our son to be in a safe environment where he can experience work and volunteer opportunities as an adult and interact with people in his community. In 2011, community supports program with independent providers was the better fit. Independent providers have been most rewarding experience and challenging one as well. Providers in the rural setting are hard to find. There are times providers quit, not show up on time. As a parent, arrangements had to be made to be home with our son, which interrupted his familiar routine. In 2019, DHHS allowed parents with powers of attorney rights their role as independent providers. This gave us the option to be a backup in-- for scheduled providers. Then, in December 2020, DHHS made a revision to their policy manual that power of attorneys cannot be independent providers. DHHS felt that it was a conflict of interest, even though there are controls in place by the services' coordinators. After a recent investigation in my son's case, DHHS recommended that I revoke my status as an independent provider and keep the-- to keep the program active. My husband, on the other hand, was required to relinquish his power of attorney rights and retain his status as independent provider. This arrangement wasn't taken lightly. The situation left one less provider to assist in our son's program, also leaving our son vulnerable due to inadequate representation to assist him in his life decisions. Please consider this story in support of LB1216. Thank you.

LATHROP: Thank you and we appreciate your testimony and coming from Clay Center.

LISA BAXA: Thank you.

LATHROP: Have a great weekend.

LISA BAXA: You too.

LATHROP: Next proponent. Good afternoon.

BETH RECKER: Good afternoon, Senator Lathrop and members of the Judiciary Committee. My name is Beth Recker, B-e-t-h R-e-c-k-e-r. I support LB1216 to help provide physical, mental, and social health for my younger brother with a developmental disability to keep him safe and in his home. As his oldest sister by 15 years, I know my brother's needs intimately. I ask you who better to care for him in the absence of our beloved parents than me, his sister and guardian? As our parents' ship began to go sideways, so did my brother's ship. Because our aging parents were not able to provide the proper support for him, his lease was not renewed and he found himself facing a housing crisis. As a sibling who took over guardianship for my brother, I found myself in my own crisis as the unique and challenging situation of caring for the needs of our aging parents, my brother, and my own family of four children. I had to choose between my job and the needs of my brother and family. This left me no choice but to leave my job and the workforce for the unforeseeable future. I have also been unsuccessful in hiring responsible and appropriate independent providers. Due to the shortage of providers, there are few, if any, with the specific needs to support my brother, leaving me to become a support person. If you vote to allow guardians to be independent providers, it will also help the next generation in our family and families like ours. When I'm no longer able to care for my brother, my children, his nieces and nephews, will be the ones to care for him. They will most likely be in their 20s and 30s while completing their education, starting their careers, and raising their own families. I ask you to keep my brother safe and from harm due to the shortage of independent providers and to expand the pool of providers by allowing family guardians to fill the workforce gap. This is a small change, a simple change to the law that will have an incredible impact on my life, my brother's life, my family's life, and all the families like ours across Nebraska. I know this because I've talked to these families, supported these families, and I'm now living it. The average lifespan of a person with Down's Syndrome, which my brother is one of those persons, is 60 years, which means my kids will be the third generation in our family to take care of my brother. This bill just makes sense. Our families provide services for our loved one from day one. If there are no or few caregivers, the solution seems obvious to me to let our families fill the gap. Family members need to be independent providers. Therefore, I respectfully ask you to please move LB1216 out of committee to General File to help fill the independent provider workforce gap and get needed life-dependent support to the citizens with disabilities in our state. Thank you for this opportunity to speak and for your consideration.

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LATHROP: OK, thanks for being here this afternoon.

BETH RECKER: Yeah, of course. Thank you.

LATHROP: Appreciate hearing from you.

MARY JANFIALA: Good afternoon.

LATHROP: Good afternoon.

MARY JANFIALA: My name is Mary Janfiala. That's M-a-r-y J-a-n-f-i-a-l-a. My testimony represents my own experience and opinions and not any of the organizations that I'm affiliated with. I'm here today to testify in support of parental guardians being able to act as paid independent providers for their minor children. After my son's tracheostomy procedure, we were warned that finding reliable dependent care would be the most challenging aspect of the journey ahead. As such, we relocated to Omaha in hopes that we'd find better luck than rural Nebraska. But when I called to inquire with home health agencies, I was told that the wait could be six months or up to a year. At that point, my son had already been hospitalized for 18 months so I went on the offensive volunteering to cover the night shift, at that point, having no idea how I would work my full-time job, be a mother to my four children, and act as his night and often day nurse. Our team was very hesitant to discharge under those-- that situation, but they finally agreed, influenced by the pandemic. The pandemic was the only reason that my son escaped multiple more months in a congregate care facility waiting for nursing, an experience that far too many families we know have. When we first came home, our only dependent help came from nurses that we recruited ourselves. Those included part-time help, as well as NICU nurses that took on shifts caring for my son in addition to their full-time responsibilities. And they were fantastic nurses, but they were also stretched very thin. My husband and I quickly realized that if we were going to survive this journey, that we would have to work opposite shifts. No employer would ever accommodate the amount of absences that we would need to be able to provide the care for our son. That left us ships passing in the night. One of us working days, one of us working nights to ensure that we could always pick up the slack when nursing care was not available. Now I want to be clear when I talk about caring for our trached, ventilator-dependent, and g tube-dependent son. I'm talking about providing nursing level of care in a mini home-based ICU. I'm talking about dosing and pushing 14 medications. I'm talking about running nebulizers and suctioning to make sure that a trach plug doesn't cut off our son's oxygen supply. I'm talking about monitoring vitals,

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titrating oxygen, troubleshooting ventilator alarms, and setting up feeding pumps to run nutrition into his little body. I'm talking about constantly being prepared to respond to a medical emergency with chest compressions or manual bagging. The level of care that parents like us provide our children far surpasses that of typical parenting responsibilities. Allowing parental guardians to serve as paid independent providers for their children would reduce the number of people like my son in congregate care settings waiting for support and it would ensure that they're able to live at home where they belong. Thank you.

LATHROP: That gives us some context. I appreciate your testimony.

MARY JANFIALA: Thank you.

LATHROP: Next proponent. Good afternoon.

TERESA EBERHART: Hi, my name is Teresa Eberhart, T-e-r-e-s-a E-b-e-r-h-a-r-t, and I'm here with my daughter, Emma. Ten years ago, we lived in Colorado and when we were living in Colorado, I was encouraged and allowed to be her paid care provider and obviously I was her parent. There are two basic reasons we're here in support of this bill: one is the shortage of direct service providers and the other is Emma's safety. The extreme shortage of direct service providers has negatively impacted our family for many years. Last week, I received an email from the agency we work with who-- trying to find direct service providers. They said they were giving up on finding someone for Emma during this time and they were going to only focus on what she might need during the summer so we're left with nothing at this point. My husband takes-- my husband's job takes him out of town a lot and I work full time as well. If a caregiver isn't found for Emma, I don't know what we'll do in May. Who will care for Emma for eight hours a day and keep her safe? Will I have to keep my-- quit my job, which would be financially devastating to our family? Opponents of this bill feel guardians should not be independent, independent care providers because the guardians need to continue to provide the oversight, oversight to ensure the safety of the care recipients. But consider how that's going right now. People with developmental disabilities continue to be victims of abuse and neglect at a much higher rate than those without disabilities. The current process of guardians only as overseers is not the answer to decreasing abuse experienced by our loved ones. The status quo is not infallible and it is in need of change. The second reason is, is because of specific support needs Emma has. Very few people in general public have a vehicle that they can transport someone with a wheelchair. That

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means Emma becomes socially isolated if we even were to find a care provider that could watch her. Social isolation is a huge risk factor in terms of abuse so even if she had a care provider who-- that couldn't take her places because of transportation barriers, she would be at risk. Communication is another area that is difficult to find competent care providers. Emma's learning to use her computer, her AAC device, to communicate. There are specific ways to educate people to use the AAC communicators. If she doesn't learn authentic, independent communication, she's more vulnerable. I was shocked to learn that 80 percent of women with developmental disabilities have been sexually abused in their lifetime. Emma's support needs include helping with highly personal things such as dressing, toileting, and showering. Imagine if you were told your daughter, your mother, your granddaughter had an 80 percent chance of being sexually abused. How safe would you feel having an ever-revolving door of strangers coming into your home? Even if those care providers that come into our home are not the abuser, it teaches Emma that anybody she comes in contact with could pull her pants down and that she's supposed to comply because that's the reality of her life when we have short-term caregivers. Emma will be turning 19 years old in August. This means we will be determining guardianship. It has been suggested by professionals in the field of service providers that I not become her guardian so that I can be an independent care provider under the current policy, but I'm the best person to be her guardian. Under the current policy, we are in a no-win situation. Do we compromise on Emma's ability as-- Emma's safety as it relates to guardianship or do we compromise on Emma's safety as it relates to caregivers? When you vote in favor of LB1216, you create a safer life for Emma and other vulnerable individuals, some of which may be your own family members if not today, someday.

LATHROP: OK and thanks for being here. Appreciate hearing from you.

TERESA EBERHART: Obviously passionate.

LATHROP: It's OK.

TERESA EBERHART: Thank you.

LATHROP: Good reason. Next proponent.

PANSING BROOKS: Welcome.

LEAH BOLDT: Thank you. Hi, my name is Leah Boldt, L-e-a-h B-o-l-d-t, and thank you, Senator Lathrop and members of the Judiciary Committee,

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for having us today. I am here today to share my story with you in the hope that you will vote in support of LB1216. As you've heard from others, there is a critical direct support professional shortage in the workforce, causing a major strain to families throughout Nebraska. As many of us are also hearing, there is a compounding teacher shortage and that is where my story comes in. I started my career as a high school science teacher shortly after graduating from college. Marriage and babies soon followed. A teacher's schedule is great for working moms, right? I thought so too until I welcomed my third child, a sweet baby boy we named Clay. Clay was born with Down syndrome. Clay spent the first few weeks of his life in the NICU, followed by almost daily doctors' appointments, an open-heart surgery, another extended stay at the hospital, more appointments, more surgeries, therapies to play catch up for missed milestones, specialist referrals, and many late nights in the E.R. shadowed his first few years of life. The seven-to-four schedule of a teacher was no longer realistic. My son required nursing level of care and that nurse was me. Unfortunately, a nursing salary did not come along with my newly appointed position. In my continued journey as an advocate and mentor to those learning how to navigate this world of waivers and dead ends, I have witnessed so many parents who quit their jobs or cut their hours in order to take on the extra responsibilities that come along with being a parent to a child with special needs. I know I am not alone in this feeling of hopelessness and obviously the 14 people that were here to testify show that as well. By allowing guardians to work as independent providers, you will decrease the financial burden on families who are faced with the impossible decision of earning a paycheck or caring for their child. Thank you for taking time to listen to my story and I encourage you to imagine yourself in our footsteps as you further your discussions regarding LB1216.

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

LEAH BOLDT: Thank you.

PANSING BROOKS: Thank you for coming today. Appreciate it. Next proponent.

LATHROP: Good afternoon.

DENISE GEHRINGER: Good afternoon. Good afternoon, Senator Lathrop and members of the Judiciary Committee. My name is Denise Gehringer, D-e-n-i-s-e G-e-h-r-i-n-g-e-r. I'm here today in support of LB1216 with its most recent amendments. I'm the mother of a 26-year-old son with Down Syndrome. I also advocate for all people with disabilities

throughout my volunteer-- through my volunteer work with several Nebraska and national disability organizations. I'm the executive director of an organization that builds and operates affordable and community-centered apartments for adults with developmental disabilities, otherwise referred to as DD, and president of the board of directors of the Down Syndrome Alliance of the Midlands, which brings me here today. Because of my lived experience in disability community, I have firsthand knowledge of the struggles that individuals with DD and their families face. Indisputably, the predominant issue they are facing is the lack of direct care professionals available to provide support for their family member who have-- who has nursing level of care needs. It's important to point out that what we are discussing today is to allow the guardian to be a paid independent provider for their family member who has been deemed in need of nursing level of care by DHHS. The person with DD has also been provided a budget to hire the needed supports. However, due to the shortage in skilled support workers, many are not able to hire a provider. The shortage situation, situation was in crisis mode across Nebraska and the entire country before the pandemic. It has been further exacerbated because of the pandemic. We have heard of this workforce shortage from provider agencies as well as families. Just a few weeks ago, I sat in an Appropriations hearing where a Lincoln-area provider agency representative stated that they had at least a 40 percent turnover in support staff employees each year. We know it's significantly more difficult in rural and frontier areas of our state. I also want to share with you an answer to a question that was brought to me by a person who does not walk in the shoes of a parent-guardian of a family member with DD, one that you may have as well. They asked, isn't there an expectation that the parents are responsible to parent without getting paid? And I want you to know that the support we are discussing is far more than typical parenting duties and it is needed for the entire length of the disabled person's life. No parent-guardian is trying to make a fast buck. Due to no fault of their own, they are left with choosing between the safety and life dependent care of their family member with DD and their own family duties, one primarily contributing to the being-- contributing to the family income through employment. Being a paid independent provider could help them in contributing to the family finances by offering an opportunity to be employed in that area that they are skilled in that is in need of workers. If a parent-guardian could hire a support person that was available, skilled, and dependable with all their-- a lot of DHS funding, I believe they would. Then they could better carry out the typical parenting duties that they were responsible for, as well as take care of themselves and balance the attention needed by

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their other family members. Unfortunately, the support persons available to hire do not meet the vast need. Parents of individuals with DD are trusted to be Social Security representative payees, court-appointed guardians and conservators, and Medicaid managers with all the subsequent reporting and oversight. There's no reason parents and parent-guardians could not also be trusted to be paid independent providers to their family member with the same qualifying skills and oversight as nonguardian independent providers. It's a clear-cut solution to a life-impacting workforce shortage. Please consider all the testimony today in passing LB1216 from committee to the General File and I welcome many questions. Thank you.

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

CHRISTINE TRUE: Good afternoon. My name is Christine True, C-h-r-i-s-t-i-n-e T-r-u-e, and I had not planned on testifying so I have nothing written for you. However, I am a family member of an individual with an intellectual and developmental disability, my brother, Joe, and I am his shared living provider. I was his independent provider and I'm also serving as an independent provider for some friends who have a child with a developmental disability. I'm also, by profession, occupational therapist so I work with people with intellectual disabilities and developmental disabilities every day. Just a little bit about my own family as a testifying piece, Joseph wasn't able to have an independent provider for several years because of staffing issues and mom and dad weren't able to use the money for him to provide that care so they didn't get to do some of the things that they needed to do. My mom didn't work because she-- somebody needed to stay home and support Joseph through that time when he wasn't going to necessarily be in day services. And so I went ahead and when I was able and had time in my schedule, I was like, let me, let me become an independent provider so you can have time on the weekends and evenings. It took well over six months with really responsive services coordination to help me get through that process. We had a couple of other family friends who were trying and it took even longer and they ended up dropping out. So just-- I really-- given what my, my mom had gone through and just going through that whole independent provider process myself, I think that this bill would help fill the gap and the need for families, including my own.

LATHROP: OK.

CHRISTINE TRUE: Thank you.

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LATHROP: Well, for somebody that showed up with no notes, you did fine. Yeah, thanks for being here. Any other proponent testimony?

LISA O'CONNELL: Hi, my name is Lisa O'Connell, L-i-s-a O'-C-o-n-n-e-l-l. I am from Fremont and I'm a mom, aunt, and legal guardian of three boys; 23, 25 and 26. They have been diagnosed with ADHD, Asperger's, autism, depression, anxiety, learning disabilities. My-- the 23rd-- 23-year-old and 26-year-old are in the Madonna school in the employment program. My 25-year-old attends Hands of Heartland and he's currently looking for another job because his other job closed down and he's having a hard time with his providers to try to have somebody be with him on these interviews. Just last week, I went to one with him at Menards and they chose to hire somebody else. But basically, I have been also dealing with this situation-- my brother is 48 so I've been dealing with it since he was little and still to today, I am doing everybody's paperwork. Like they said, the Social Security, the guardianship reporting, that is a long tasking thing and I actually volunteer and work at an agency, Uniquely Yours Stability Support. I'm a master gardener on top of everything else and I do this so the kids can see you can still do stuff. But as a person in their lives, it would be a lot easier on me being able to be home more and so they could see more. And on top of all this, of dealing with the health condition, is a multiple hereditary osteochondroma that can lead from doing everything normal to all of a sudden, being in a wheelchair with multiple surgeries and stuff. And everybody in my family and my three boys all have this condition. And it's just a lot of tasking work with all the doctor's appointments and meetings and every-- it seems like every other week, there's this appointment, that appointment, paperwork to do. DHHS and a lot of people like in certain areas-- technically, the moms and the parents would actually do better in these positions than some of the workers because you get hardly nowhere when you talk to some people, especially with DHHS. When you try to call up and ask for some help on certain things or try to get them to understand that guardianship, yeah, you have to be on their bank accounts. Well, to tell them that that's not my money, it's theirs, do you not understand that concept? And it's like every year, after all these years, I'm still dealing with the same component of that. So it's just-- boy, teaching actually needs to be brought up too. But I think that this would be the best avenue for everybody.

LATHROP: OK. So you're telling us when you call DHHS, they're not always helpful?

LISA O'CONNELL: That's correct.

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LATHROP: We're shocked.

LISA O'CONNELL: Well, I know that, but I'm always-- the best thing is I just go right to ask for a manager, supervisor and everybody I deal with at the agency, I tell them the same thing--

LATHROP: OK.

LISA O'CONNELL: --so.

LATHROP: Well, we're sorry it's so, so difficult for you. But thanks for being here to share.

LISA O'CONNELL: Thanks.

LATHROP: Next proponent. Good afternoon.

JENNIFER HANSEN: Good afternoon, senators. My name is Jennifer Hansen and I am an employee of the Munroe-Meyer Institute at UNMC, but my testimony is my own based on my experiences as a family member and not representative of MMI or UNMC. I'm in support of LB--

LATHROP: Jennifer, you're going to have to spell your name.

JENNIFER HANSEN: Oh, sorry. J-e-n-n-i-f-e-r H-a-n-s-e-n.

LATHROP: OK.

JENNIFER HANSEN: I am in support of LB1216 based on my firsthand experience of having a child with disabilities. As a parent of an individual with disabilities, every committee you are on, training you go through, every meeting you attend emphasizes how imperative your role as a parent is and how critical it is that you are at the table when decisions are being made, how sharing the lived experience perspective is imperative. Well, here we are. Our testimony is based on our knowledge. We are the experts and I implore you to hear us and to listen to us when we tell you what we need. I'm the parent of three. My middle daughter has a rare genetic syndrome that resulted in intellectual and developmental disabilities and significant limitations in her functional skills. We also have the joy of dealing with various significant behavioral issues. She is 11 years old. She has limited verbal communication and needs moderate to total assistance for all activities of daily living: eating, bathing, dressing, etcetera. She is on the Aged and Disabled Waiver, as she meets the nursing facility level of care. While we are extremely grateful to be on this waiver, the lack of care providers to deliver

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the services provided under the waiver is at a critical level. Even prior to the pandemic, I had called several agencies to see if we could get services for my daughter, including respite and childcare. I left several messages and didn't even get a call back from any of them. I was able to get a hold of one agency and fill out the paperwork and never heard anything back. I talked to an intake coordinator at Children's Hospital Home Healthcare to see about getting assistance. They said their waitlist was at least two years to get in-home care. That was three years ago. It has only gotten worse since the pandemic. There are no daycare or childcare options for us. There is no going to a friend's house to give us a break for a while. There are no family members who can take care of her for a couple of hours. We have tried, but no one is able to provide for the needs of my daughter. We haven't had a break in over two years. Since she was a baby, I've had to limit myself to jobs that allow me to work from home as needed, as well as great flexibility in hours since she has been in day treatment, meaning 8:30 to 4:00 Monday through Friday for three to four months at a time and multiple additional appointments a week since she was born. My priority and my most important job is to be my daughter's caretaker. We are very lucky to be a two-income family, as well as to have the waiver to help with medical expenses. However, we still have substantial financial ramifications due to my restricted work options. I am unable to advance in my career and increase my earning ability. I have, have had to change jobs, continually decrease my work hours, and decline promotions. When school closed due to COVID, we had, had difficult decisions to make as a family, as did many others. We had to further decrease my work hours to what was feasible to work from home while caring for all three of my children. However, our middle daughter was not able to do virtual learning. That meant that it was all on me. Oh, OK. Well--

LATHROP: I think we get it.

JENNIFER HANSEN: OK.

LATHROP: Let me ask a question.

JENNIFER HANSEN: Yes.

LATHROP: Is this, is this an issue about what we're paying the providers? We're not paying them enough so we don't have enough of them or--

JENNIFER HANSEN: Well, later on in my testimony, I--

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LATHROP: Not, not to pay you, I'm not asking that question, I'm asking-- it sounds like you're saying we can't find the people, even when we get the OK and we get authority or whatever you get from HHS that says you can now take this and go find a service provider and you're not able to find them.

JENNIFER HANSEN: I do think that is part of it, but obviously, since this was even prior to the pandemic, we were having issues with shortages. I think this has been ongoing that we haven't addressed this issue. I think we're just at a crisis point right now and I don't know, especially in the rural areas, that there has ever been or ever potentially could be enough providers unless we really invest in the system.

LATHROP: Didn't we do-- and I'm thinking Senator Bolz may have worked on this issue-- a provider reimbursement study of some kind and then we beefed up the provider rates?

JENNIFER HANSEN: I do believe that there have been quite a few studies done related to developmental disabilities and Medicaid and I don't know if much has come out of them. And I do know that there was a bump in pay, but I don't know. It's-- the work that is being asked of these providers. It is not in line with what they are being paid.

LATHROP: OK. Yeah, I hear some, some parents that are coming here today say, I want to be the one that does it because I want to be there and make sure that it's being done well and my child is being taken care of in a safe manner. And then there's people I hear that say, I would like to get a provider and have help, but I can't find one so I need to be doing it myself and compensated.

JENNIFER HANSEN: I definitely think it's a mixture of both, especially in my position where my daughter does need such extensive needs. But she also has severe behaviors, which means she will injure herself and others. And so to ask somebody to come in to do that work for \$12 an hour, I, I, I would feel bad doing that.

LATHROP: Yes, well it's a challenge as well.

JENNIFER HANSEN: Yes, yes.

LATHROP: OK. Well, we appreciate you being here.

JENNIFER HANSEN: Yes, thank you.

LATHROP: Thanks.

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JOE VALENTI: Well, good afternoon--

LATHROP: Good afternoon.

JOE VALENTI: --Steve. It's been a while--

LATHROP: Yeah, it has.

JOE VALENTI: --and, and in committee. If I could answer, I'll answer a little bit of your question you just asked Jennifer. So the average--

LATHROP: Let's start with your name and then--

JOE VALENTI: Oh, OK.

LATHROP: --we got to have you spell it.

JOE VALENTI: Sorry. Joe Valenti, J-o-e V-a-l-e-n-t-i. So the average rate of pay for the direct support staff in Nebraska is about \$13.27 so I don't need to explain the rest to you, probably. But, you know, what happens with rate increases, committee-- and this is not necessarily your area. It goes to Health and Human Services and John Arch has plenty to do there too-- but is that you give a rate increase, the challenge is-- as the state is how much of that rate increase goes to the DSPs versus to administration or to the CEOs of the provider network. Not trying to be derogatory, but that's the fact.

LATHROP: OK.

JOE VALENTI: So I'm here in support of LB1216. Parents like these and many others need help for their children. Many years ago, when my wife and I needed help for our son, Donny, who is now 34 and resides at BSDC, our only choice after exhausting many options was to make him a ward of the state to get the services that he needed. I really hope these parents would never have to do that. Again, he's at BSDC and the reason he's there is because after many, many placements in the community, which were unsuccessful. Senators, I have testified on several occasions this year before several committees. In every case, it seems to me that the Department of Health and Human Services is the theme. Here we are again trying to patchwork system, which is not caring for some of our most vulnerable who cannot speak or care for themselves. This bill and its intent should never have been presented to you, the Judiciary Committee. Nebraska's leadership from this Governor, other governors, and years of leaders with HHS have ignored consistently the need for services and programs. The theme seems to be

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the same: the juvenile centers, the regional hospitals in Lincoln and Norfolk, the Beatrice State Developmental Center, the foster care system, the lack of proper waivers and programs for our DD/IDD population and those with severe mental challenges. The waiting list for services, which has money to move people off the waiting list, can't even be accomplished today consistently because the providers cannot provide the service. Now, this is not a new problem. The providers knew of this-- this was a problem that came up five six seven years ago in studies, but nothing has been done to resolve this problem. So again, it's going to take creative thinking. This is not your committee's work, but LB1216 is needed for these parents. But again, it's just patchwork. We keep patching and kicking the can down the road and I know you have enough issues with the penal system as it is, but it's a very similar, it's a very similar analogy. So again, I hate to get too broad with you, but again, it's been a failure to lead by the executives of this state as well as HHS on a consistent basis because when you're appointed by the Governor, that's what happens. You're afraid to ask.

LATHROP: OK.

JOE VALENTI: Sorry to be so direct, but that's a fact. And I don't get paid, and I don't get paid to be nice.

LATHROP: We, we're used to direct. I-- you know, we've worked since the BSDC special investigative committee. Thank you for your advocacy. And you know what? I-- you said it's been a few years since we started talking about this. I know that there were alarm bells sounded when we did that special investigative committee probably in 2009, somewhere in there--

JOE VALENTI: Yeah.

LATHROP: --'08 or '09, whenever it was.

JOE VALENTI: When I was much younger.

LATHROP: So was I. And the, the fact that we were not compensating the providers sufficiently and we knew providers were leaving the state because we just-- we weren't being a good partner with them. And now it's not surprising that we have a shortage of providers.

JOE VALENTI: And real quick, I know the light came on, but on the salaries, let me just address that really quickly. So at Beatrice, the unions-- there's two unions there, as you're probably familiar with. They were able to negotiate some pretty substantial increases for

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their staff, which has helped to, in some cases, hiring and retain staff. But money is not going to solve this problem for these folks, as well as the provider network. It's going to take a lot of work. I mean, it's going to take some, you know, going to high schools, going to community colleges. But I'm sorry, senators, that's just not happening. I know that's not your area. That's not why you're here today. But I mean, it's really sad that you have to even address a bill like this because I know there's a lot of complications with guardianships and so forth and so on within the statute, which I'm not paid at all to figure out.

LATHROP: OK.

JOE VALENTI: Go ahead.

LATHROP: Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Joe, for all the work that you do and this, this question is a little outside of the bill, but because your son is at Beatrice, do you feel Beatrice is being fully utilized today?

JOE VALENTI: No.

BRANDT: I mean, what capacity do you think they have to use to help other--

JOE VALENTI: I would say-- if I were-- OK, that's a great question and I'm going to be-- I am very, very close to the situation down there. I would say their capacity is not much greater than what they have today. They have approximately 85 individuals in what I would call the, the medical side of Beatrice, of BSDC. And then in the crisis-- they have a crisis unit and a step-down unit, which our son, he goes from crisis to step-down back to crisis. But anyway, that's a different story. They probably had five or six in that program. I could say they could handle a few more in each of those programs. Real quickly, back to studies, we keep doing studies, but implementing what the study says and getting back to stakeholders, that's-- that circle just doesn't ever get completed. So I think to answer your specific question, I think we could do a lot better at Beatrice. But there's such a movement from CMS and other opponents of that, of institutional care, that it's a really hard thing for HHS also. So I'm giving you kind of both sides, but I would tell you the care at Beatrice for a lot of individuals would really help the community if they would allow more individuals to go to Beatrice because at the high end, when the

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community has to take care of individuals-- I would take our son as an example-- it's three and four on one type of staffing. Well, that-- and a lot of people talked about the cost of Beatrice. Well, I can tell you the cost is give or take about \$300,000 per individual at Beatrice. When that same individual is in the community, it's the same cost. When that same type of individual, high risk, tier one it's three and four on one in the, in the community home.

BRANDT: All right. Thanks, Joe.

JOE VALENTI: Thank you.

LATHROP: Thanks for being here. Good to see you. Any other proponent testimony? Seeing none, we'll take opposition testimony. Good afternoon.

BRAD MEURRENS: Good afternoon, Senator Lathrop, members of the committee. For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I'm the public policy director at Disability Rights Nebraska. We are the designated protection and advocacy organization for persons with disabilities in Nebraska and I'm here in opposition to LB1216 and the amendments as they are written. To be clear, we are not insensitive or dismissive of the needs of families. The dearth of service providers has a real and significant impact on the lives of individuals with disabilities and their families. As the protection and advocacy organization, we are charged with protecting and advocating for the legal and civil rights of persons with disabilities in Nebraska. And as an agency that gets calls regarding an inappropriate or exploitative guardianships like Judith Widener, we are additionally concerned about the rights of individuals subject to the guardianship for the National Council on Disability reminds us that the legal implications of guardianship impact to personal civil rights, that can be a drastic restraint on a person's liberty and should be recognized as an extraordinary intervention in a person's life. That warning should give us great pause. Rather than enact quick legislation, we should instead engage in a deliberative, thorough, and expansive review of our guardianship statutes and consider updates where needed. The bill and the amendments' prescriptions do not apply just to those with intellectual development disabilities, but all disability types, the aging community, and any other person that is deemed incapacitated. Hence, the need for inclusive deliberation. The bill also invites serious conflicts of interest between the ward, guardian, family, and institution, all without sufficient protection. Some states have made changes to their guardianship statutes, but we have not gathered sufficient data and understanding of the outcomes.

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Some states have built in additional layers of rights protections to allow expanded categories and avoid or mitigate potential conflict of interests. The Uniform Law Commission's guardianship proposal includes reform ideas that do show promise. A fruitful change, rather, might also lie in the Medicaid waivers, not the guardianship statutes. LB1216 and the amendments are not the approach we should take. It proposes changes to our decades-old guardianship statutes that have not benefited from a full vetting by individuals, other families, and the wide array of organizational stakeholders that would be impacted or that have particular expertise in these matters. Instead of acting on the bill today, we would strongly suggest an interim study be developed where this broad deliberation and analysis can take place. We would be happy to assist where and how we are able in that endeavor. That concludes by testimony this afternoon. I'd be happy to entertain any questions the committee may have that I may answer.

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

BRAD MEURENS: Sure.

LATHROP: Any other opposition testimony? Anyone here to testify in a neutral capacity on LB1216? Good afternoon.

KRISTEN LARSEN: Hi, good afternoon, senators. My name is Kristen Larsen, K-r-i-s-t-e-n L-a-r-s-e-n, and I'm here on behalf of the Nebraska Council on Developmental Disabilities to testify in the neutral capacity on LB1216. Although the council is appointed by the Governor and administrated by DHHS, the council independent-- council operates independently. Our comments do not necessarily reflect the views of the Governor or his administration or the department. We are a federally mandated independent council comprised of individuals and families of persons with DD, community providers, and agency reps who advocate for systems change and quality services. The council serves as a source of information and advice for state policymakers and senators, taking a nonpartisan approach to provide education and information on bills that will impact individuals with DD. Council members took additional time and consideration to review and discuss LB1216 at their quarterly council meeting. At that time, they voted to take a position on LB1216 with the initial bill language that was introduced. AM1440-- AM1940 had not been dropped so in accordance with council practice, members had to make a decision on LB1216 as written. Edison McDonald, Arc of Nebraska director, provided additional information about the intent of the bill to make changes to state statute that would allow the guardians and parents to be paid caregivers for waiver services. He noted that the intention was not to

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expand guardianship and explained that many families had expressed a need to be allowed to be paid waiver providers, especially since the current paid caregiver workforce shortage poses a burden to many families. Providing a pathway for families and guardians to be a paid caregiver will alleviate the emotional and financial stress that many are facing, as you heard today. Still, the council had concerns related to all of the proposed cuts to language on page 2, lines 4 through 18. By striking this language, it would provide to expect-- it could be-- possibly expand guardianship, which would lead to unintentional consequences of creating a power imbalance for individuals with disabilities and/or elderly citizens and with their facility or agency providers. Supporting LB1216 as written would also run contrary to the council's endorsement of the supportive decision-making, SDM practice, as an alternative to guardianship and there's more about that in my written testimony. Edison shared that the potential amendment revision would leave in all of the language he had-- we had concerns with and the amendment language would allow guardians to serve as independent providers. So the council must comply with the Nebraska Open Meetings Act and time was set aside in our agenda for public comment. Comments in support of LB1216 were given by nine mothers of parents with-- who had children with disabilities about the struggles they face to find paid caregivers to provide waivers supports for their children. Two other parents submitted written testimony. Their stories all noted the shortage of paid caregivers, unique family situations, and how they frequently serve as a last resort to provide unpaid round-the-clock care for their children. They talked of the need to have paid caregivers in order to stay employed, the disruptive input or impact at high rates-- that the high turnover rate has on their children or when folks just don't show, and the need for caregivers for individuals with complex medical needs who require 24/7 care. They all mentioned the need for backup support to make it possible to juggle the regular demands of family life and these parents need to be heard and supported. I want to note that I know my red light is on, but I've got a little bit more. Tony Green also serves on our DD council as an agency rep and so at our last quarterly meeting, we asked him just point blank, you know, how can this be addressed? He shared that CMS does allow guardians to be paid providers and some states allow the practice. But in order to do that, there needs to-- you know, the bottom line is there needs to be options available to guardians and that you can do it without changing the statute, but they require multiple steps, including the ones I've noted in my testimony, so-- but it can be done. So I want to be clear, it can be done. We recognize that there are members in our disability community that still have some concerns

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with protection and advocacy of individuals and so there are some issues that still would need to be addressed with that if we were able to get CMS approval to provide this, especially addressing the conflict of interest between the parent as the guardian and an entity employing them to provide services to their ward or to make sure there's additional monitoring on that.

LATHROP: OK.

KRISTEN LARSEN: But we just recommend a legislative resolution and we think that with the passage of LB376 and the DD consultant that's tied to that, that that would be an excellent opportunity to explore the topic further.

LATHROP: All right.

KRISTEN LARSEN: Yeah, sorry.

LATHROP: You got a lot in there in two minutes. Thank you for your testimony.

KRISTEN LARSEN: You're welcome.

LATHROP: Any other neutral testimony? Seeing none, Senator Cavanaugh, you may close. We, as you would expect, have position letters: 33 as proponents, three as opponent, and two in the neutral capacity.

M. CAVANAUGH: Thank you, Chairman Lathrop and members of the committee, and thank you to everyone who came and testified to get-- today. I very much appreciate them kind of laying out what the situation is currently and I think it's clear from everyone's testimony, from proponent, opponent, and neutral, that there's work that needs to be done in this area and there's a lot of work that needs to be done. And so I am committed to partnering with everyone who spoke today in finding a solution to this and moving it forward. To your question of one of our testifiers, you kind of hit, hit it right on the head, pay. What do we pay these people to provide these services? I mean, I-- when I first started on this journey, I thought everybody talked about how the pay was low and I was like, oh, I wonder-- I actually don't know what the pay is. I was thinking like, it's probably like \$20, \$25 an hour. It's like \$12. I mean, I could work at Target for, you know, more than that and be a lot less stressed out. So, so the people who are doing the work of providing these services are massively underpaid. And as a result, if they are a household of more than three people, they are on-- they qualify for different welfare programs or public programs such as SNAP and child

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care subsidies so they can't even afford to send their child to childcare so that they can work to take care of disabled individuals. Clearly, that's a broken system. Sorry, that was a little grandstanding, but I'll take any questions.

LATHROP: It feels a little bit like an HHS hearing.

M. CAVANAUGH: I know, I know.

LATHROP: I get that we're talking about guardianships and the like, but the compensation of individuals providing the care in the family or outside the family, a little bit out of our wheelhouse.

M. CAVANAUGH: That is an-- actually an Appropriations issue and--

LATHROP: Appropriations or HHS.

M. CAVANAUGH: --and it is one that the Chairman of Appropriations is prioritizing this year--

LATHROP: OK.

M. CAVANAUGH: --to address and also the Chairman of HHS is working with him on that. So hopefully this year we will see some changes to provider rates.

LATHROP: OK, very good. Well, I appreciate you bringing the bill and I'm sure the families do too because we've had a good airing of the problem today--

M. CAVANAUGH: Yes.

LATHROP: --and I look forward to hearing that there's a solution.

M. CAVANAUGH: And this crew is well known in HHS.

LATHROP: OK, very good. Thank you, Senator Cavanaugh. That will close our hearing on LB1216 and bring us to the last bill of the day and our own Senator Day. Joe, good to see you.

JOE VALENTI: Yeah, take care.

DeBOER: Jen, have you been here before?

DAY: I think I had one last year, but I think I had my staff introduce it.

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DeBOER: I was thinking this was your first time.

LATHROP: We'll have you open in just a minute.

DAY: OK.

LATHROP: OK. Senator Day, welcome.

DAY: Thank you. Good afternoon, Chairman Lathrop and the members of the Judiciary Committee. My name is Jen Day. That's J-e-n D-a-y and I proudly represent Legislative District 49 in Sarpy County. I'm introducing LB772 to support victims of domestic violence, sexual assault, and child abuse by ensuring that they do not experience financial debt as a result of seeking necessary medical care. LB772 would prohibit providers of medical care and services related to the examination or treatment of domestic assault, sexual assault, or child abuse from referring victims to collections or distributing information that would affect the credit rating of the victim or the victim's family. This bill does not prevent healthcare providers from seeking reimbursement for services from the survivor, insurance, or other available forms of payment. Accessing medical care is often an essential resource for many survivors, whether that be receiving a forensic examination or treatment for an injury arising from domestic or sexual violence. However, payment of medical bills and accruing medical debt can serve as a major financial consequence to survivors and prevent them from seeking the care that they need. LB772 will eliminate a critical financial barrier to seeking appropriate care by protecting survivors from medical debt. This legislation is especially important for the types of victims it covers of domestic abuse, child abuse, trafficking, and sexual assault because of the unique trauma and stigma they face from these crimes. It creates challenges for seeking help and plays a role in why these cases are so frequently underreported. Healthcare providers serve as critical resources in identifying survivors and connecting them to other professionals for help. This bill will allow for greater access to medical care by alleviating the financial burden placed upon survivors. As a result, medical providers can ensure that survivors are identified, their situations are reported as needed, and most importantly, that they are provided with appropriate support. LB772 is a continuation of this Legislature's work to ensure that the costs of care do not serve as a barrier to victims seeking the help that they need following domestic abuse or sexual assault. Last year, this committee advanced and the Legislature passed two bills to make the Crime Victim's Reparations Program more accessible to survivors by lifting some administrative barriers and allowing healthcare providers to build a CVR program

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directly. LB772 is an important next step. Now that we have provided an avenue to reimbursement for healthcare providers through CVR, LB772 will ensure that survivors are not sent to collections for the cost of healthcare resulting from their victimization. With that, I'm happy to answer any questions you may have.

LATHROP: OK. I don't see any questions. They are hard to come by on Friday afternoon.

DAY: I bet they are. Thank you.

LATHROP: Thanks, Senator Day. We will take proponent testimony at this time. Good afternoon.

RACHEL WEST: Good afternoon, Chairperson Lathrop and members of the Judiciary Committee. My name is Rachel West, R-a-c-h-e-l W-e-s-t. I'm here to speak in support of LB772 on behalf of the Nebraska Coalition to End Sexual and Domestic Violence and its network of local direct service provider programs across the state. These programs offer a range of services and supports to sexual and domestic violence survivors, including medical advocacy and referrals. Access to medical care is an essential resource for many survivors, yet some survivors fear that accessing care may lead to significant debt or other negative financial consequences. I would like to share with you one recent example of this from a rural area in the state. An advocate from a local service provider program worked with a survivor who was physically assaulted and strangled. The advocate visited with the survivor about seeking medical care for injuries. The survivor wanted to seek medical care, but was hesitant to do so out of concern that they would not be able to pay for it. The advocate explained that under existing state law and processes in place, the Nebraska Crime Victim's Reparation Act covers costs incurred by healthcare providers in treating or examining survivors' injuries. The survivor was relieved to hear this and the advocate accompanied the survivor to the emergency room. Later, the survivor signed a medical release of information for use in criminal charges, filed for a protection order, and cooperated with the police and the county attorney in the prosecution of charges. The following month, the survivor received a bill for medical expenses. The survivor brought a copy of the bill to share with the advocate and signed a release of information to grant permission for the advocate to contact individuals on their behalf to help with this. The advocate contacted the medical provider and both the Attorney General's Office and the Nebraska Crime Commission about the established processes already in place for payment of forensic exams. In the meantime, the victim received more bills, which landed

in collections. After the advocate made additional calls and explored financial hardship exemptions, the survivor ended up not having to pay the bill and the facility removed it from collections. It's clear that despite the current processes in place, survivors' medical bills are being sent to collections while medical providers wait for reimbursement or claims to Crime Victim's Reparations are pending. Even though this situation ended with the survivor not paying the medical bill, it required a significant amount of hours from both the advocate and the survivor to resolve it. This burden fell on a survivor who was also trying to find and relocate to safe housing, file a protection order, maintain employment, and work with police officers and prosecution, all while working through the trauma of the violence that they experienced. Additionally, when survivors' medical bills are sent to collections, the impact on survivors' credit scores jeopardize their efforts for safety at the very time they need it most. This process is even more traumatizing for survivors who do not have the direct support of an advocate and are navigating this process on their own. I urge you to vote LB772 out of committee. Thank you for allowing me to share this example with you today.

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

RACHEL WEST: Thank you.

LATHROP: Thanks for being here. Good afternoon.

KATIE WELSH: Good afternoon. My name is Katie Welsh, K-a-t-i-e W-e-l-s-h. I'm an attorney and the legal director at the Women's Center for Advancement. We're a nonprofit organization that serves survivors of domestic violence and sexual assault in Omaha, Nebraska. I'm here today to express the WCA's support for LB772 because no survivor should choose between debt and necessary medical care in the aftermath of an assault. As a victim services organization, we are accustomed to seeing victims navigate the healthcare system. Most of, most of our clients will have received medical treatment for a serious assault or will eventually heed our advice to address their untreated symptoms resulting from that assault. For example, our advocates often respond to the hospital to have initial meetings with victims who have been raped and are in the process of undergoing a sexual assault exam. They also visit victims at the hospital while they receive treatment for serious bruising, lacerations, and other physical symptoms following a physical altercation with their abuser. Following these encounters, our advocates immediately get to work on helping these victims obtain protection orders, find beds at a shelter, secure food and clothing, and participate in crisis counseling. The hospital bills

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resulting from their visit are just not a priority by comparison to a victim's immediate safety. Still, other victims we meet are not receiving the medical attention they need until after they have sought our services. Some of them have left dangerous situations where they were denied access to the phone, insurance card, and a vehicle to the hospital. Despite undergoing serious, repeated physical abuse, they can't gain access to necessary medical care until later. They may be living with chronic pain from repeated abuse, including symptoms from traumatic brain injury. Knowing the abuse our clients have endured, as well as all the help they need to restart their life, including building or rebuilding their financial stability, I'm certain that hospital bills are not only an unwelcome reminder of their trauma, but also an additional burden that stands in the way of fully restarting their life after the violence they've experienced. Victims often are unable to pay because they have had to start over financially. Their abusers may have drained their bank account, ruined their credit, or refused them access to insurance cards. In other cases, victims don't want to use their insurance cards because they worry about privacy or safety issues if family members or others find out so they pay out of pocket. Essentially, the monetary costs of medical services are routinely billed directly to the victim, either because they have not used their insurance, they use their insurance, but the services aren't totally covered, or they are uninsured. Victims are in these situations through no fault of their own. When the bill goes unpaid, it gets sent to a collection agency in some cases years after the original incident, which leads to more phone calls and letters ordering the victim to pay up. The original crisis that brings the victim through our doors will have long since been addressed so that we are no longer in their lives and therefore can't provide them the resources they need to address their collections case. If we are still involved with the victim, they may not know that they need help. Even when they know they need it, my legal team doesn't have the capacity to provide anything more than counsel and advice for collections cases. Victims are often navigating the systems to pay the debt on their own. Without the protections offered by LB772, victims will continue to shoulder the monetary costs of domestic and sexual assault, even though they did nothing wrong. No victim should hesitate to choose necessary medical treatment for fear of the debt that may result. LB772 effectively ensures that victims will not be punished for the behavior of their abusers and subjected to further trauma. Therefore, we have at WCA, on behalf of survivors, ask you-- your support for LB772 and advance it out of committee.

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LATHROP: OK. Thank you for being here. I do-- I got to ask a question. Is the Crime Victim's Reparation Fund that we talked about last year, is it sufficient to cover all these bills that we're talking about?

KATIE WELSH: My understanding is that it is not.

LATHROP: I didn't think it was. OK, thank you. Next proponent. Good afternoon.

ANDREA EDWARDS: Good afternoon. Dear Senator Lathrop and members of the Judiciary Committee, my name is Andrea Edwards, A-n-d-r-e-a E-d-w-a-r-d-s. I'm the director of Heartland Housing Sanctuary, a heartland family service. I'm testifying today in favor of LB772 on behalf of our agency and the clients we serve and would like to extend our appreciation to Senator Day for bringing this bill forward. The sanctuary program consists of a 14-bed shelter, community-based advocacy, and transitional and rapid rehousing for labor and sex trafficking victims. This program is based around prevention and recovery from human trafficking. As you can imagine, many of our clients have endured injuries from domestic and sexual assault. In these situations, survivors hesitate to go to the hospital or other facility to begin with because of fear related to discrimination, fear of their abuser or trafficker, fear that they may not get adequate medical attention due to past trauma during care, or they don't feel like they're worthy of medical care. If you-- if they are able to forgo all of these fears and make the decision to receive medical attention, the last thing they should ever have to think about is how they can afford to have their injuries treated. In all honesty, though, many of-- most of our sanctuary clients are not thinking about bills or debt. They are in such a heightened state of survival, acting from a fight-or-flight response to their trauma, that bills from medical services is the last thing from their minds. However, in some of our other programs, when our clients get to a place of some stability where they can begin to problem solve and plan for their future, this is when we see debt, bills, and bad credit come back to haunt them. If I were to ask any of those clients whether they would have-- excuse me, whether they would go and get treated or-- and get stuck with a bill that they cannot afford or go without treatment, each one of them would choose to go without treatment. In conclusion, it seems obvious to people in my field of work that survivors of crimes, especially some of the most heinous crimes, should never endure more pain and suffering than they already have. I hope this is obvious to you as well, that you vote LB772 out of committee and pass it on the floor. Thank you for the opportunity to share and I would be happy to answer any questions.

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LATHROP: I don't see any questions today. Thank you for being here, though, Ms. Edwards. Good afternoon.

NATALIA TU: Good afternoon, Chairperson Lathrop and members of the Judiciary Committee. My name is Natalia Tu, N-a-t-a-l-i-a T-u, and I am the Freedom from Violence Weitz Fellow at the Women's Fund of Omaha. The Women's Fund testifies in support of LB772 and its efforts to protect survivors of domestic and sexual violence from debt collectors after receiving necessary medical care. The National Crime Victimization Survey found that 58 percent of female sexual assault victims experience injury and approximately 44 percent of victims raped by an intimate partner who receive medical care spend one or more nights in the hospital, indicating how critical medical services can be to survivors. However, the financial burden that is attached to obtaining medical care can be incredibly damaging to survivors, as several testifiers before me have outlined. On average, survivors of intimate partner violence pay almost 30 percent of medical costs out of pocket and women survivors of intimate partner abuse experience 42 percent higher healthcare costs than their nonabused peers. The risk of being sent to collections or receiving a damaged credit score can have profoundly negative impacts for a survivor who is seeking to heal from the abuse they've experienced or who is potentially planning to leave their abuser, considering economic factors are among the top reasons why someone may choose to stay in an abusive relationship. This financial burden may also influence a survivor's decision to forgo the care that they need altogether. To be clear, LB772 aims to protect survivors from debt collectors, but does not prevent healthcare providers from seeking payment for the services from the victim, insurance companies, or any other source. While LB772 will help ensure that survivors receive the care that they need without having to worry about being sent to a debt collection agency, the bill also helps establish a foundation in which situations of violence and abuse are reported appropriately. Nebraska is safer when survivors feel supported in coming forward to report the crimes that they've experienced. Currently, instances of domestic and sexual violence are frequently underreported, but when survivors seek necessary medical services, healthcare providers have the opportunity to make sure that survivors are identified, have access to appropriate resources, and that their cases are reported as needed. We urge you to vote in support of LB772 to ensure that survivors of domestic and sexual violence will not experience additional financial hardship after obtaining essential medical care in the aftermath of their assault. Thank you and I'd also like to note that forensic nurse examiner team leader at Methodist Hospital, Jen Tran was planning to testify but had

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to run to another commitment so I've passed along her testimony as well.

LATHROP: OK.

NATALIA TU: Thank you

LATHROP: Very well. I don't see any questions, but thanks for being here. Appreciate hearing from the Women's Fund. Any other proponents? Anyone here in opposition or in the neutral capacity? Seeing none, Senator Day, you may close. We do have, on LB772, 18 letters that are from proponents, one from an opponent, and none in the neutral.

DAY: I will just add briefly that I-- it's my personal philosophy that I don't think anyone should be going to collections for seeking medical care, but certainly not seeking medical care from-- resulting from domestic violence or sexual assault or child abuse. So I don't have anything to add. I think the testifiers articulated it eloquently. I'm happy to answer any questions at 4:15 on Friday if you happen to have any.

LATHROP: Don't see any.

DAY: OK.

LATHROP: Senator Day, Thanks for bringing LB772--

DAY: Thank you.

LATHROP: --to the committee and that will close our hearing on LB772 and our hearings for the day.