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Judiciary Committee March 2, 2023
Rough Draft

WAYNE: All right. Good afternoon and welcome to Judiciary Committee. My name is Justin Wayne. I represent Legislative District 13, which is north Omaha and northeast Douglas County. Today, Senator McKinney will lead our song of the day. We'll start off with staff and--

HOLDCROFT: I want to do a song.

WAYNE: --we'll start off with staff and senators.

HOLDCROFT: [INAUDIBLE]

WAYNE: I think he can sing. You all want to do a duet before we start. You can do "Ebony and Ivory," that'd be a good one. All right. I love just having fun sometimes. All right. This is what happens when you don't get lunch. Starting with self-introduction, starting with my right with Senator McKinney.

McKINNEY: Good afternoon. Senator Terrell McKinney, District 11, north Omaha.

JOSH HENNINGSSEN: Committee legal counsel, Josh Henningsen.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

HOLDCROFT: Good afternoon. Rick Holdcroft, District 36, west and south Sarpy County.

DeKAY: Good afternoon. Barry DeKay, District 40. Encompasses Holt, Knox, Cedar, Antelope, northern part of Pierce, and most of Dixon County.

WAYNE: And senators will be coming and going as we have other hearings in other rooms so don't take offense if people aren't here. That's why we have a recording so we can catch up on everything that's said here today. We also assisting us today is our committee pages Logan Brtek from Norfolk who is a political science and criminology major at UNL, and Isabel Kolb from Omaha who is a political science and prelaw major at UNL. This afternoon, we will be hearing five bills and we'll be taking them up in the order listed outside of the room. On the table at the side of the room, right there in the front to my right, your left, there is blue testifier sheets. If you are planning to testify today, please fill out one of those sheets and hand it to the committee page when you come up to testify so we can keep accurate records of how to spell and who, who is testifying. Try to write, you

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know, clearly too. If you do not wish to testify, but would like to record your presence at this hearing, please fill out a gold sheet that's also over there. So if you hear people who are saying the same things that you are saying, we're not saying you shouldn't testify, but either fill out the gold sheet or think of a new idea. I'm in a good mood today. Also, I would like to note the Legislature policy is that all letters of record must be received by the committee by noon the prior day of the hearing. If you have handouts, please hand them to the committee clerk for those who are watching and may testify in the future, please bring ten copies. If you don't have ten copies, the committee clerk-- well, not the committee clerk, the page will make additional copies. Testimony will begin with the introducer's opening statement. After the opening statement, we will hear from any supporters of the bill, then we will hear from opposition, then we'll listen to those who are speaking in the neutral capacity. The introducer of the bill will then have an opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by stating and spelling your first and last name. We will be using the three minute light system. When you begin your testimony, the light on the table will be green. It'll turn yellow, that is the one minute warning. Unlike football, you don't get a one minute time out, you just have to keep going and then you'll have a red light that comes up and that means wrap up your final thoughts. And if you don't, I will let you know. I would like to remind everyone, including senators, that please turn off your cell phones or put them on vibrate. With that, we will begin today's hearing with LB110. Senator McDonnell, welcome to your Judiciary Committee.

McDONNELL: Thank you, Chairperson Wayne and members of the committee. My name is Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l, represent Legislative District 5, south Omaha, here to introduce LB110. This bill incorporates some updated features with-- that have made pretrial release a cost-saving, safety-enhancing success in other states. Nebraska has shown success in terms of problem-solving courts and diversion programs, but a core issue that often arises with these solutions is that many individuals are forced to plead to a charge to qualify or, in the case of diversion, have to choose to face charges they may be innocent of or take the less risky option of diversion. What's more, what's more, some of, of very supportive measures employed to make these programs successful come too late to make a difference for the accused. Pretrial release can benefit taxpayers by cutting costs, provide accused individuals with the essential support they need, and ensure public safety through proper supervision.

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Research has shown that pretrial release is an effective, major cost-saving strategy if, if accompanied by tools akin to those employed in problem-solving courts or diversion programs. Regrettably, through pretrial releases without adequate supervision and court-ordered requirements might bring about two serious issues which our upcoming testifiers will test-- will discuss more extensively. One, it puts public safety at risk and it sets the accused, the accused up for failure. Today, I'm calling upon you to lend your ear to the unfortunate victims who will share their testimonies. As we reflect on these stories, let us also consider past hearings where criminal activity could have been avoided had certain measures been taken sooner. Such interventions may include proper support structures and more supervision requirements when public safety could be at risk. We only need to look at a national study that found problem-solving court teams with law enforcement members involved resulted in 87 percent reduction in recidivism and 44 percent increase in cost savings. LB110 seeks to ensure pretrial release procedures also offer-- and also offers those kinds of benefits and structures. Our aim is to design a pretrial release program in Nebraska that will benefit those who have been accused by offering them the necessary guidance and structure they require, while at the same time furnishing judges and law enforcement with the capability to guarantee community safety so that families do not have to experience tragedies that could have been avoided if some simple protections had been put in place. You know, here we are today and, and we're, we're trying to look at how's that-- how do you do that balance? You know, you're, you're looking at a person that's been accused, this is pretrial, giving them the structure and the help they need, at the same time protecting public safety. And I think the people that are going to testify today here will talk about that balance and they're the subject matter experts. Here to answer any of your questions.

WAYNE: Any questions from the committee? Senator McKinney.

McKINNEY: Is this constitutional? I'm reading this and in part (c) in section-- sorry, but there is a part in here that says a part of like the pretrial release conditions, what asks somebody to waive their Fourth Amendment rights?

McDONNELL: Well, I, I believe it's constitutional. Now, I've been wrong before in my last six years. I've had a bill every year that's not constitutional. But at this point, I believe it's constitutional.

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McKINNEY: Is that-- I don't-- like, I, I do think, like, pretrial release and those type of things are good things, but I'm hesitant to-- because the Fourth Amendment is like a person is free from unreasonable searches and seizures, right, something like that. I don't, I don't-- I got to refresh my, my mind on that. But that's, that's a lot, especially when the law enforcement and their interactions with black people have not been the greatest. Especially with people in law enforcement currently and that scares me and I'm being honest about it.

McDONNELL: Well, as you know, the, the goal, of course, is to try to look at those people that have been accused, getting them the support and, and the help they need. At the same time, make sure that we're not taking a step backwards in public safety. So trying to combine those two and if there's ways to improve the bill, I'm definitely open to, to working with the committee.

McKINNEY: OK, because it goes back to the conversation we were having upstairs during debate about LB77 and the nuance in legislation, especially when it comes to race. And I could easily see this being horrible, especially disproportionately from a racial perspective. So it's something to think about. Thank you.

McDONNELL: Thank you.

WAYNE: Any other questions? Seeing none, are you going to be here to close?

McDONNELL: Yes. And I got two other bills, so if I leave, I'll try to come back as soon as possible and I plan on being here to close.

WAYNE: Just put the bat signal up if you can't come and I'll, and I'll understand.

McDONNELL: Thank you.

WAYNE: All right. Any other-- oh, sorry, we'll start off with proponents. Proponents? That'd be those who are in favor of the bill. Welcome.

STEPHANIE GRADOVILLE: Thank you. Stephanie Gradoville, S-t-e-p-h-a-n-i-e G-r-a-d-o-v-i-l-l-e. My brother Christopher Gradoville was senselessly murdered on September 30, 2021, in Omaha. He was only 37 years old. The perpetrator is Ladell Thornton. He was renting a house that my brother used to own, that he had sold to a

friend. Christopher was asked by his friend who owned the house to check on some plumbing issues since he was familiar with the house. Christopher let Thornton know he would be stopping by to check the plumbing out on Tuesday, and two days before the murder, he told him he would be back on Thursday to replace the toilet. Their contact was uneventful. When Christopher returned on Thursday morning, he walked up to the house carrying the toilet. Thornton opened fire on Christopher as he approached, chasing him and shooting him from the front of the house to the back. Thornton did not run. He confessed when the police arrived. We have heard that Christopher was shot over 20 times from detective reports, Douglas County Attorney's Office, and the coroner's report. We, the family, were not allowed to see Christopher before he was taken to the coroner. No, no, mother, father, sister or wife should ever be put in a situation and have to view the body of their loved one that was murdered and shot multiple times. After the initial investigation, the detectives let us know that Thornton was out on pretrial release on a physical assault and strangulation charge of his pregnant girlfriend in July 2021. Also, the gun he used to kill Christopher was involved in a shooting that occurred in April of 2021. The detectives also told have told us that this was the first murder case they had ever had with no motive. Thornton laid in wait because all that was in the house was a lawn chair facing the picture window in the living room with the magazine clips on the table. Christopher was my parents only son, my only brother, and a husband to his sweet wife, Nikki. Our lives have been shattered due to this career criminal and high-risk reoffender put back on the streets with very little or no law enforcement supervision while on pretrial release. Christopher was very accomplished and touched so many people in his 37 years of life. In the 17 months since he was killed, there have been fundraisers in his name. He's been inducted to several Hall of Fames for, for his baseball career and numerous other accolades. Nikki, his widow, has given you a list of his many accomplishments. Our challenge now is that Thornton has been declared incompetent to stand trial. He wrote a letter to the judge stating that he is God and the only thing he will act-- accept is liberty. He's being evaluated at the Lincoln Regional Center. He has been there since the fall. We have been informed he could be competent in the foreseeable future, but that could be months away. But the hope is that he will be competent before the end of the year. This will be an extremely long wait and very frustrating for us. Thank you for your time.

WAYNE: Thank you. Hold on one second, ma'am.

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STEPHANIE GRADOVILLE: Oh, I'm sorry.

WAYNE: One, sorry for your loss; and two, because this is an active criminal case, just be careful of what questions you might ask. So any questions from the committee? Seeing none, thank you for being here.

STEPHANIE GRADOVILLE: Thank you.

WAYNE: Next proponent. Welcome to your Judiciary.

AMBER WOOD: Hello. Amber Wood, A-m-b-e-r W-o-o-d, Omaha. This photo that you have is my daughter, Karly Rain Wood. Please look at her and think of her while testimony of this bill comes into play today. Karly was only 20 years young when she was shot multiple times, not even four months ago. This case involving Karly in a mass shooting she was killed at has several repeat felons involved. Some, some charged with gun violations were literally on federal supervision at the time of this shooting and on bond for another crime. Others are currently out on bond and what supervision are they receiving? Others involved are still at large and one who is now awaiting trial for second degree murder of my daughter was out on bond even after being charged as a felon with a gun in this shooting. This guy is a four-time felon who repeatedly was released and chose to carry a gun as a felon and now my daughter is dead. Again, the police had to find and arrest this guy twice. That's unacceptable. Who do I get to hold accountable for that? Currently, judges aren't held accountable, and the supervisors aren't either. Who does the research to grade pretrial release levels because the guy who took part in shooting my daughter didn't even receive the highest level of pretrial release numerology? Who is accountable for this and who is certified to determine it? In my opinion, you should lose certain rights as a criminal. You choose to make crimes, you lose privileges, including freedom. My daughter not only lost her freedom, her future and her life, but we lost a part of our lives and now we live with this daily. Do-- excuse me, I ask do you want to be in her shoes or our shoes? I'm going to tell you about Karly Rain, she was beautiful, smart, six foot three, independent, talented artist, an entrepreneur, a productive part of society with no criminal record. At only 20, she had two jobs and big dreams. She was saving to buy a house and start her own business. She deserved to come home after attending her first party. Karly was there 15 minutes, 15 minutes, and she was handed a death sentence. Yet, I stand here in front of you trying to make you understand that repeat felons shouldn't get two, three, four, five chances. Karly didn't even get one and we are left with a life sentence of living hell. It's not Karly's life that was

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just affected, her friends, her coworkers, her teachers, and even her pets feel the absence in their own lives. This bill seems to have some things in it that will-- could have helped save her life. There's a pattern when repeat offenders offend and then something is wrong with the current system. It's not working. If you're documented or affiliated with a gang or the charges are related to anything where a person was killed, pretrial should be off the table. How many Karly Rains must lose their life before you listen. We will never get to hold her hand again, plan a wedding, or have a baby shower. Please take a look at this bill. Pretrial should be a privilege for nonviolent related, compliant defendants. And do you research how many victims at the hands of repeat offenders? Tell me why law enforcement shouldn't be involved with the process of pretrial release.

WAYNE: Thank you. And again, I'd like to remind that-- again, sorry for your loss, ma'am. Again, I'll remind the committee that this is an active case, so be aware of that when asking questions. Any questions from the committee? Seeing none, thank you for coming down and thank you for continuing to come down. Next proponent. Proponent? Welcome.

NYAGOA DENG: Hello. Nyagoa Deng, spelled N-y-a-g-o-a, last name D-e-n-g. To begin, I apologize for the river of tears that I'm sure are to follow in advance. Today, I come to you all to speak on LB110, which proposes to implement criteria related to a pilot project for pretrial risk assessment services. Although I am a current political science student with hopes of pursuing a law degree, I'm not here with you all to take, propose, or to critique anything. Today, I'm here to speak about Karly and how the shortcomings of previous legislation have filled her. Karly was a beautifully vibrant 20-year-old. On November 13, 2022, not only did I lose a friend and attend my first funeral in the following weeks, but I gained a death-- I gained a fear of death at a young age. I thought about what my obituary would read. I thought about who would come to my funeral and how my family would feel. Karly's death wasn't just the death of my beautiful friend but was the death of youthfulness for myself and many of our friends, a time when 21- and 20-year-olds are [INAUDIBLE] with gun threats than we are with having a good time, a time when 20- and 21-year-olds are now more concerned with the thought of returning home to our parents rather than living young, wild, and free. Karly's death at the hands of multiple-time felons took away our youth, tugged at our hope in society, and forces a 21-year-old to be more concerned with legislation than her academic studies. No one can bring back beautiful Karly and no time clocks can be reversed, but what we can do is implement stricter conditions on which pretrial releases are given and

legislation in relation to pretrial risk assessments as the foundation of the courts. On a system that has released numerous multi--multi-time felons on a wide array of conditions, the court has failed me and has failed my youthful desires. If not for Karly, for the future youth to come. If not for Karly, then for the youthful desires of all of our brothers and sisters, sons and daughters. Implementing criteria related to a pilot project for pretrial risk assessment services isn't for anyone, rather is for everyone, and must be further considered and implemented. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for your testimony today. Sorry for your loss. Next proponent. Welcome.

AARON HANSON: Thank you. My name is Sheriff Aaron Hanson, A-a-r-o-n H-a-n-s-o-n. I am the sheriff of Douglas County, Nebraska. LB110 is about, about policy positions. It's about what do we want to do in terms of allowing local government to supervise individuals who are free on bond or pretrial release in order not only to keep the community safe, but to actually help those individuals to potentially get on a better footing themselves. There are communities across our nation that are utilizing pretrial release efforts in a smarter role. That's not to say that here locally that we're doing anything per se wrong. We're following the public policies that the Legislature has given us. One of those public policies is that in Douglas County and larger counties that the Department of Corrections is separate from the sheriff's office. That's, that's unique across the country. For the most part, the majority of larger correctional agencies is going to have either the involvement or the supervision of the sheriff. But that's a public policy decision we've made in Nebraska, and I, I have no quarrels with it. But when we talk about that interface between what happens inside of a correctional facility versus what happens outside of a correctional facility, that opens the door to, to a public policy discussion about collaboration, smart collaboration. We've got some of the best Corrections officers and I think one of the best Corrections departments in the region in the Douglas County Correctional Department. But Corrections is their specialty. We don't bemoan the plumber for not being an electrician. You need both to build a house. LB110 will not only give judges the tools that they need to help make sure that we're either safely supervising high-risk repeat offenders, but also the tools that can help get them on track, potentially give them a better chance for probation, avoiding prison, or maybe even entrance into a problem-solving court. There are communities across our nation that have Fourth Amendment waiver

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options for individuals on pretrial release. They let the judges decide those. I've spoken with those agencies. Some agencies do. Some agencies don't. So the constitutionality has been determined, at least in those other states. Now it's up to you as the public policymakers, do you want to create a system in Nebraska where we have that strong, smart balance between keeping people safe from repeat offenders, but also believing that sometimes those repeat offenders can rehabilitate? I'll take any questions you might have.

WAYNE: Thank you. Any questions? Senator McKinney.

McKINNEY: Thank you. First, if you're out on bond or pretrial release, are you guilty?

AARON HANSON: No, sir. Innocent until proven guilty.

McKINNEY: No matter-- OK, so let's get that out of here. Second-- so hypothetical, somebody is up for pretrial release if this is passed and that individual is the young man that in that video you kicked, would that be a conflict of interest?

AARON HANSON: Senator, I'm sorry I didn't hear that. I seriously didn't. I couldn't hear what you were saying. I--

McKINNEY: So last year a video came out of you kneeling a young man who was arrested for whatever reason. So if that individual came up for pretrial release, do you not see a conflict there if you were able to give counsel or advice?

AARON HANSON: No, Senator.

McKINNEY: You don't see a conflict?

AARON HANSON: No, Senator.

McKINNEY: OK. Thank you.

WAYNE: Thank you. Any questions from the committee? Senator Holdcroft.

HOLDCROFT: Thank you, Chairman Wayne. Thank you, Sheriff, for coming in. I have a couple of questions just based on some of the statements in the fiscal note. Apparently, there will be two programs, one in a county that's 500,000 or more-- I wonder which one that will be since we only have one county that has 500,000 people or more, and then one in a county that has 500,000 people or less, or less than. And it does

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say that there is currently a program in, in, in Douglas County, does that-- is that true? What's the difference?

AARON HANSON: There is. So, so Douglas County Corrections has a pretrial release supervision program. You will hear more about that from speakers later on in this, in this discussion. But at this point right now, it is, it is a program that is administered solely by Douglas County Corrections. In, in many communities that I visited, they have the administrative supervision component like we do have here in Douglas County and in Nebraska. But they also have the street-level supervision component, the sworn-officer component, the people that are trained, equipped, and specialized to investigate individuals on the streets. This, this bill contemplates bringing that type of a, of a team effort together.

HOLDCROFT: OK, great. Thank you very much.

WAYNE: Any more questions from the committee? Seeing none, thank you for being here. Next proponent. Welcome.

PAT DEMPSEY: Hello. My name's Pat Dempsey, P-a-t D-e-m-p-s-e-y, and I'm here on behalf of the Omaha Police Officers Association. I'm a 13-year veteran of the police department, and I've had the opportunity to work in several specialized units within the department. I've worked as an uniform patrol bureau officer, I've worked as a gang unit detective, and I've worked as a homicide detective. In my time in these departments in different units, I've dealt firsthand with the pretrial release system and how it works. I believe that LB110 gives law enforcement the ability to have a say in how pretrial release works, but also gives a say for how some of these offenders are treated. I didn't have anything prepared today, but given some of these individuals, the programming that they need, I believe helps stop recidivism and potentially help some of the substance abuse issues that we see on a routine basis as an underlying factor of why they continue to commit crimes. With that, I'm here to answer any questions.

WAYNE: Any questions from the committee? Senator McKinney.

McKINNEY: Thank you. I'm reading through this bill, and I'm really thinking about the Fourth Amendment issue that I have with-- well, not-- that's not all the issues I have. But so searches and seizures inside of a home without a warrant are presumptively unreasonable. But however, there are exceptions if an officer is giving consent to

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search, if the search is incident to a lawful arrest or there's probable cause to search. But in this bill, it's not even giving an individual the even option to waive that right, it's just taken the right away. Do you not see an issue with that?

PAT DEMPSEY: Senator McKinney, I'm not completely vested into every detail of this bill. The subject matter experts like Senator McDonnell or Sheriff Aaron Hanson would know kind of the ins and outs of it so I couldn't tell you exactly how that's worded in the bill.

McKINNEY: All right. Thank you.

WAYNE: Any other questions? Seeing none, thank you for being here. Next proponent. Next proponent. Seeing none, we'll move to opponents. Opponents? Welcome to Judiciary.

COREY STEEL: Thank you, Senator Wayne-- Chairman Wayne and members of the Judici-- Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l. I'm the Nebraska State Court Administrator with the Administrative Office of the Courts and Probation. I'm testifying today in opposition to LB110. According to Nebraska Revised Statute 29-901, subsection (6): In order to assure compliance with conditions of pretrial release, the court may order a defendant to be supervised by a person, an organization, or a pretrial service program approved by the county board. As a result of this statute, Nebraska Probation does not currently provide any pretrial release services in any county in Nebraska. Pretrial release services are effective at helping and ensuring individuals attend their court hearings. National studies have also demonstrated that individuals supervised on pretrial release are significantly less likely to commit new crimes before disposition of their pending offenses and are more successful when subsequently placed on probation. According to LB110, the State Court Administrator would be required to select two counties for a three-year pilot, with one of those counties having a population of 500,000 inhabitants, which would be Douglas County. According to Douglas County officials, who we have contacted from my office, they currently have a well-established, robust pretrial release program that's operated through their county Department of Corrections as you have, you have heard. In 2022, the Douglas County pretrial release program served a total of 3,031 individuals for a total of 363,720 days of pretrial release supervision. According to LB110, the State Court Administrator will be required to reimburse Douglas County at a rate of \$150 per day for each individual diverted and placed on pretrial services or pretrial release. This calculates out, which is in our fiscal note, to

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over \$54 million just for Douglas County alone. The State Court Administrator would be required to reimburse Douglas County that is not currently any funding in the judicial branch budget to do this. In closing, I'd like to reiterate we do support pretrial release programs and feel they are important for the court system but are operated by local counties and we are in support of the current pretrial programs in those counties. Therefore, we oppose the bill and the requirements of funding already existing pretrial release programs. I'm sure Commissioner Borgeson will come up and would like \$54 million from the State Court Administrator's Office, but that's currently not in the budget at this point in time. I thank you for your time and would be happy to answer any questions.

WAYNE: Any questions from the committee? Start with Senator Blood, followed by Senator Holdcroft.

BLOOD: Thank you, Chair Wayne. Quick question. Are you aware of any funding mechanisms that might be available to fund something like this outside of the state budget?

COREY STEEL: Yeah, there are, there are grants that pop-up through the federal government, BJA, Byrne JAG money, and so forth that could be used for pretrial release programs if the county chose to apply for those as well.

BLOOD: Has there been any discussions of alternatives at all in reference to this bill?

COREY STEEL: Not, not from my office, no.

BLOOD: OK. Thank you.

COREY STEEL: Thank you.

WAYNE: Senator Holdcroft.

HOLDCROFT: Thank you, Chairman Wayne. So if I followed you correctly, Douglas County already has a pretrial release--

COREY STEEL: Correct.

HOLDCROFT: --program. And what they're asking for is essentially reimbursement for that program or there's additional items that, that they're asking for?

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COREY STEEL: There's additional items in the bill as well that are created that the State Court Administrator would be engaged and select the two counties, one over 500 [SIC], one, one less, where currently we don't select any counties. The county board, on their own accord, would choose to have a pretrial release program, there are standards that are set forth or protocol that would be set forth in the bill as well, and then the funding mechanism.

HOLDCROFT: OK. Got it. Thank you.

WAYNE: Any other questions from the committee? So just real quick. Obviously, there's a big discrepancy between-- well, in Douglas County. Do you know the numbers for Lancaster County or any other counties who do pretrial?

COREY STEEL: The other county we reached out at from my office just to get a comparison, because I also know Sarpy County does have some pretrial release programs as well, but Lancaster County is the one that we reached out to as well. And, Senator, if you would like me to--

WAYNE: Yeah.

COREY STEEL: OK. So in Lancaster County, the total number of individuals served on pretrial release in 2022 was 114 individuals for a total day saved on-- or served on pretrial by these 140-- 114 individuals was 11,034, which is averaged out to \$96 per individual on pretrial release. If we put the \$150 component that is in this bill on that, that would be \$1,655,100. In comparison to Douglas County, the total number of individuals served in 2022 on pretrial release was 3,031 for a total number of days in pretrial was 363,720. The average days for those individuals that are on pretrial was 120 days. And that's where we came up with the fiscal note of \$54,558,000 for this bill, \$150 times the number of days the individuals were currently on pretrial. That's how we estimated our fiscal note.

WAYNE: So that raises two questions for me. One, you said 114 in Lancaster?

COREY STEEL: Correct, total number of individuals supervised in 2022 was 114 [INAUDIBLE].

WAYNE: Versus 3,000 in Douglas County. OK.

COREY STEEL: Correct.

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WAYNE: So that's a huge discrepancy. The second thing that stands out to me is 120 days. That's six months. That's about-- it's about the length of a speedy trial. Is that, is that an issue in Douglas County because we don't have enough judges or have you not ever looked into that? If you haven't looked into it, it's an unfair question.

COREY STEEL: I, I haven't, I haven't dove into the data graph bar to determine the issues, whether they're speedy trial issues or what have you.

WAYNE: Well, I don't know if they're a speedy trial. I'm sure the attorneys would raise it, but this is--

COREY STEEL: It's about 24 days difference between Lancaster and Douglas County in length of stay.

WAYNE: That's important because typically county-- now, does this include felonies?

COREY STEEL: This is all that were engaged in pretrial release.

WAYNE: OK.

COREY STEEL: When we, when we contacted each Douglas and Lancaster County pretrial programs, we asked for the total number that were served in their pretrial program and we asked for the total number of days--

WAYNE: Thank you.

COREY STEEL: --in order to get our data.

WAYNE: Any other questions? Seeing none, thank you for being here.

COREY STEEL: Thank you.

WAYNE: Any other opponents? Any other opponents? You're in the wrong committee, that would be Appropriations for the \$54, \$54 million that was discussed.

MARY ANN BORGESON: \$54 million. I'll get it right. Good afternoon, Chairman Wayne and committee members. My name is Mary Ann Borgeson, M-a-r-y A-n-n B-o-r-g-e-s-o-n. I am the chairwoman of the Douglas County Board of Commissioners and our Douglas County Board of Corrections. And before I begin with my outlined remarks, I do want to

extend to Ms. Gradoville, Wood, and Deng my sincere loss for their loved ones. But I'm here on behalf of the Douglas County Board of Commissioners to oppose LB110. And just for way of a little background, back in 1974, Senator Fellman actually introduced the structure of the Board of Corrections and which gave the County Board of Commissioners to be the County Board of Corrections. And the reason and the clear intent, which is written in the statute, declaration of the intent, was so that we could focus on the Corrections' aspect and law enforcement could focus on their primary duty, which is law enforcement. And so, again, we serve as the Douglas County Board of Corrections. The law also allowed for us to hire an administrative officer, which we have. And you'll hear from him about our program. We not only have one who is an expert in the field of Corrections, but also a behavioral health expert as well. So in Douglas County, as I said, we sit as the elected body of the Board of Commissioners and as the Board of Corrections and hired our jail administrator. So a few reasons why we oppose LB110 is in Douglas County there already exist an organized body that meets monthly. It's our Criminal Justice Management Services Committee. And this is made up of every justice and law enforcement agency that there is in Douglas County to go over justice system issues. Pretrial program being the one. We did invest over a year and a half before we rolled out our new pretrial program. And again, our director will talk to you about that. But we had gone through all of the judicial branch officers to talk about what this should look like and what changes should be made. Judges, public defenders, county attorney, law enforcement. We had everybody and commissioners at the table talking about this. So I won't go through all of the other ins and outs of the bill, but we just basically think this is not needed. We have done our job as an elected official, as an elected body overseeing our board-- our jail through our Board of Corrections with an expert we have on hand being our jail administrator. And with all due respect, we do oppose LB110 and hope that the committee does not advance it.

McKINNEY: Thank you. Are there any questions from the committee?
Senator Blood.

BLOOD: Thank you, Senator McKinney. Thanks for coming. It's nice to see you again.

MARY ANN BORGESON: Nice to see you.

BLOOD: So did the senator who brought this forward did that office work with you guys at all, talk with you? So it was never discussed--

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MARY ANN BORGESON: No.

BLOOD: --to your knowledge?

MARY ANN BORGESON: No, it wasn't.

BLOOD: All right. Thank you.

MARY ANN BORGESON: Um-hum.

McKINNEY: Thank you.

MARY ANN BORGESON: All right.

McKINNEY: Are there, are there any other questions? I have one just for clarity. So to be clear, the current program that you have was developed with input from county attorneys, public defenders, law enforcement, city prosecutors, and the courts.

MARY ANN BORGESON: Everybody, yes, and commissioners and it was presented-- our, our administrator continued to give us update at our Board of Corrections meetings as to where it was. We actually held off on implementing it to do some tweaks. We consistently looked at it and the administrator goes back to talk to parties that there is issues and updated as needed. And again, he'll, he'll give you some new numbers once we rolled it out. But yes, it had everybody-- all judicial bodies.

McKINNEY: So why do you think the sheriff and the Omaha Police Department want some changes? Do you think it was something in those conversations that they missed or was left out?

MARY ANN BORGESON: No, because OPD was at the table with this as we've developed it so-- and I haven't had any discussions.

McKINNEY: And I know that, that the current sheriff is new, but the prior sheriff was at the table?

MARY ANN BORGESON: Yes.

McKINNEY: Yes.

MARY ANN BORGESON: And I mean, I've been doing this for-- I'm starting my 29th year. And again, we have done-- any, any issue that arises out of Corrections, there has always been a place for people to come and voice their opinion as to what isn't working and what we should look

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at. We don't need a, a law to tell us to do that. It's already being done. And that is actually one of the reasons why we created our Criminal Justice Management Services Committee so that all of the players within that system could sit around the same table.

McKINNEY: Thank you. And that's good to know. It's kind of reflective of what happened with the CJI process last year where we had everybody at the table, then something came to the floor and people went a bunch of different ways but had ample opportunity to express those differences.

MARY ANN BORGESON: That we're willing to work with anybody.

WAYNE: Any other questions from the committee? And I do apologize for abruptly leaving. When you get a 444 number, as you know that number, it's usually--

MARY ANN BORGESON: Yeah, that's important--

WAYNE: --it's usually a judge calling, so.

MARY ANN BORGESON: --if you don't take that.

WAYNE: Luckily, it was just probate so I was all right. I'm, like, I'm nervous, missed a court date. Glad I didn't. Any other questions from the committee? Seeing none, thank you for being here.

MARY ANN BORGESON: Thank you. Nice to see you all.

WAYNE: Yeah. Next opponent. Welcome.

MICHAEL MYERS: Good afternoon, Chairman Wayne and members of the committee. My name is Michael Myers, M-i-c-h-a-e-l M-y-e-r-s, and I am the Director of Corrections for Douglas County. I am in opposition to LB110 because in large part we have already implemented what this bill is asking for as Commissioner Borgeson just told you. We have been working with the sheriff's office and continue with the new sheriff's administration as there are representatives from his team who are-- actually our last meeting was yesterday. The, the sheriff's office, the county attorney, the city of Omaha prosecutor, the public defender, the presiding judges of county court and district court, as well as the Department of Corrections, worked together for 18 months to plan the implementation of this program. It uses-- already uses a validated assessment instrument known as the Public Safety Assessment, which was tested on over 1.2 million individuals over the course of

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its development. This instrument will be evaluated and our data will be evaluated by the Advancing Pretrial-- Policy Pretrial and Research Association [SIC]. I'm not opposed to UNO also evaluating our data, but we already have a nationwide provider or nationwide expert who's going to be evaluating the public safety assessment and our implementation of it in Douglas County. The Public Safety Assessment predicts the following: the likelihood of someone appearing in court, the likelihood of committing a new criminal offense while on pretrial release, and it also indicates a new violent offense warning. Other provisions in, in LB110 are also already in place. We do use GPS monitoring. We also have intensive drug and alcohol monitoring. We have case-managed services to-- and, and for our pretrial defendants. Again, you've seen that the fiscal note is, is, is quite extensive. We have hundreds of people on pretrial release every single day. In conclusion, we in Douglas County, we have long-standing collaborations with public and private agencies in regards to reentry to include housing and employment, educational and vocational training, mental health care, addiction treatment, housing, and many others. Our pretrial collaboration is just the latest example of why this change in statute is unnecessary for Douglas County. I look forward to a long and productive working relationship with Sheriff Hanson. But to mandate collaboration when collaboration-- yes, my time is up.

WAYNE: Thank you for your testimony. I appreciate it. Senator Holdcroft.

HOLDCROFT: Did you want to go ahead and finish your thoughts?

MICHAEL MYERS: Sure. Thank you. To mandate collaboration and partnerships in a manner in one county that may later be applied across the state may hamstring individual locality's efforts to be nimble and respond to the challenges and utilize the resources that they have. Nebraska is very different from one end to the other and from, from east to west and, and urban to rural. The resources are different and the challenges are different, and it, it is best left for us to innovate without restrictions of state statute and build our collaborations based on the needs and challenges and the resources that we have.

HOLDCROFT: Another question.

WAYNE: Go ahead.

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HOLDCROFT: You know, 20/20 hindsight is, is really unfair. I, I hesitate with this question, but what do you think happened here with Karly? Oh, I can't asked that question.

WAYNE: There's pending litigation on the issue and I don't know if prosecutors or witnesses are here, so I don't, I don't-- that's a, that's a [INAUDIBLE].

MICHAEL MYERS: I can, I can talk around that, Senator, if you wish.

WAYNE: Yes.

MICHAEL MYERS: I can tell you our, our new pretrial release program was implemented last October, basically October 1. There was at the time of the unfortunate incidents that had occurred there was fewer interventions available.

HOLDCROFT: OK. Thank you.

WAYNE: Thank you. Thank you for respecting that. There is a witness here, so. Yes.

McKINNEY: Thank you.

WAYNE: Potential witness. Yes.

McKINNEY: Couple questions. Are all-- or does everybody that end up on pretrial release get convicted of a crime?

MICHAEL MYERS: No, they do not.

McKINNEY: OK. And I'm also curious, during your interactions with the sheriff's office and law enforcement, did anyone suggest that they wanted people to waive their Fourth Amendment rights?

MICHAEL MYERS: You know, that has-- during the previous sheriff's administration that, that, you know, that 15-month or 18-month planning period we had that never came up. And I have had little-- well, no previous consultation with the new sheriff about, about this particular-- the whole bill or this particular provision in it.

McKINNEY: All right. Thank you.

WAYNE: Any other questions from the committee? Senator DeKay.

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DeKAY: Thank you. Between the old process and the new process with pretrial risk assessment, what are the differences of criteria how you address that?

MICHAEL MYERS: So our, our previous pretrial risk assessment was known as the Virginia Pretrial Risk Assessment Instrument. It was-- it predicted a, a single score of pretrial success, which was sort of a conglomeration of not committing a new crime and appearing in court. It also had factors that I think some people were uncomfortable with in terms of potential bias. There are many ways-- factors that you could measure to assess, to develop the profile of somebody who's likely to appear in court remain crime free. The, the Virginia instrument, there was some concern that some of the items that were assessed may be unfair of people of lesser economic means, it asked questions about their recent employment history, it asked questions about their-- how long they lived at a particular residence. All of those things may be valid predictors of pretrial release. But the public safety assessment doesn't ask those questions, it asks other questions that are just as powerfully, if not more powerfully predictive of the person's success. The, the-- I think what the judges also find valuable in the Public Safety Assessment is the fact that it gives-- it doesn't give just one score. It gives three more specific indicators, the risk of, of not appearing in court or I should say, the likelihood of appearing in court, the likelihood of committing a new crime while on pretrial release. And I think what is of particular interest is the violent defense flag. And that's not necessarily a score or a level, it's either a yes or a no. If a certain number of factors have been in the person's background are present, that there's an indicator that violent offense may be more likely than for other individuals.

DeKAY: Thank you.

WAYNE: Can you-- any other questions from the committee? Can you shoot my office an email or where we can find some information on new pretrial release programs?

MICHAEL MYERS: Absolutely.

WAYNE: So we can talk about it and see how--

MICHAEL MYERS: Absolutely. Thank you, Senator.

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WAYNE: --[INAUDIBLE]. Thank you. Any other questions from the committee? Seeing none, thank you for being here. Next opponent. Opponent?

SPIKE EICKHOLT: Good afternoon, Chair Wayne and members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in opposition to LB110. Listening to the testimony earlier of both the proponents and the opponents there seems to be some sort of a, a Douglas County issue perhaps, or a disagreement with the local government officials there. But we still nonetheless remain opposed to the bill. If you look at the bill, the bill actually makes relatively minor changes to 29-901 section-- subsection (6), which is the authority that the judges have if they release somebody on a pretrial release bond or even on a pretrial regular bond to order certain conditions. Those are really sort of minor amendments to it, the heart of the bill is sort of mandating that the State Court Administrator's Office do a pilot program for this service now that the counties are doing it across the state here and there. This-- if you look at the language in LB110 that's not amended, that was actually amended a couple of years ago or several years ago in a pair of bills, LB259 and LB881, as Senator Matt Hansen did. And it was deliberate to provide with judges and local officials with more authority to order pretrial release conditions when people are released on bond. It was meant to address the jail overcrowding problem. The alternative here for, for many situations was if somebody was charged with a crime, the judge would set a money bond. If they could come up with the money they'd be out with little or no supervision. This gives the judges some authority to provide for ankle monitoring, daily check-in, drug testing, that sort of thing. So it may not sort of be ideal and it may not be what the sheriff of Douglas County wants. I did hear the proponent testimony, anything I'm saying against this bill should not be interpreted to be saying anything against what those people have experienced and their loss. But respectfully, if you look at the bill, I'm not sure exactly what is proposed in this bill or specifically address what happened in that situation. One thing that is awkward and Senator McKinney noted on it on page 5, lines 23-24, that it provides the court with the authority that to require the defendant to waive their rights. That is sort of awkward and clunky. Having said that, it's not uncommon when a judge would basically offer a pretrial release program to the defendant if the defendant specifically asks will you agree to check in daily? Because if you don't, you're not going to get out of jail. Will you

agree to drug, drug testing? This is awkward because it's-- implies that they would waive their Fourth Amendment rights completely, which could include having to give blood, having to have a DNA sample swab. Those things are not necessarily related to the conditions of their release. And it is sort of awkward and it seems sort of peculiar to have that as explicit in statute. So-- and I don't know the extent that it does really anything to enhance the local programs that are now developed in the county. Having said that, a number of our members do practice in Douglas County, the Criminal Defense Attorney Association, a number of our members do practice in Douglas County and we are opposed to the bill. Oh, I'm sorry.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next opponent.

JASMINE HARRIS: Good afternoon, Chair Wayne and members of the Judiciary Committee. My name is Jasmine Harris, J-a-s-m-i-n-e H-a-r-r-i-s. I'm the director of Public Policy and Advocacy at RISE, we're the largest nonprofit in Nebraska, working solely with rehabilitative programming for people who are incarcerated and coming out. Today, RISE is in opposition of LB110 for the reasons that have been listed previously. Just want to make sure we're on record stating for the why. Last year there was a bill introduced in this committee about pretrial programs that we were in support of, and it's because we see what Douglas County is moving towards, what they have just implemented recently with the PSA risk assessment and wanting to ensure that rural counties had the same thing. So that way there was funding for that. What this bill drastically does in opposition to what that bill was doing is, therefore, putting power into a position that only maybe one person has experience in, which is saying that a sheriff should have say in what those programs are or how that county should use those programs. I don't think the solution can just be a government resolution from law enforcement into the, into the courts and, and, therefore, into the pretrial arena. When you look at it, law enforcement officers and personnel do not have that expertise. They do not have the wherewithal or knowledge of all the community resources, because if that was the case, we would have more people connected to community resources on that front end. So you wouldn't see people consistently going in and out of the jail system. Also, when you look at the Fourth Amendment rights, people aren't convicted. We are fighting on the back end to ensure that people who have gone through these processes still have their rights reinstated when we were fighting for the voting rights, which was something that was taken away which shouldn't be. This can be manipulated and there could be

loopholes that happen. It can be used against people. When you look at people who are on probation, do they give away their Fourth Amendment rights when they're on probation when they have home visits? So I think when we're looking around what this looks like, we have to take those things into consideration. And so RISE is in opposition and asks that you not advance this bill out of committee for those [INAUDIBLE]. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

JASMINE HARRIS: Thank you.

WAYNE: Next opponent. Next opponent. Mr. Hammel, you testified in the opponent position? Paul-- oh, sorry, [INAUDIBLE]. Like, when does a reporter testify? Going to neutral testimony. Neutral testimony. All right, seeing none. As Senator McDonnell comes up to close, we have four letters for the record: one in support and three in opposition. Senator McDonnell for your close.

McDONNELL: Thank you, Chairperson Wayne, members of the committee. Try to address a couple of the questions. Yes, definitely, in the, in the language of the, of the bill, we looked at half a million people. Senator Holdcroft has asked so county-- Douglas County and also a smaller county as Senator McKinney had asked about the-- which I believe Sheriff Hanson tried to answer a little bit, but we'll get you more information about the Fourth Amendment and then other states that have implemented this. With going back to the idea of talking with Senator Blood, her question about talking to people from Douglas County, I have. But the people that brought this forward was Sheriff Hanson and also, I know Senator Blood was running late, in your packet that I handed out there is a letter from Douglas County or Douglas County Attorney who is also supporting this bill, Don Kleine, that I'll read: LB110 provides the tools that our criminal justice needs. Our judges need more options regarding rehabilitation and supervision regarding safety to the public. Many communities across America are already utilizing this more holistic approach combining Corrections' and law enforcement efforts to supervise high-risk defendants on pretrial release. These communities are experiencing positive outcomes for public safety and the defendants themselves. So that's why he's supporting it. So the idea of actually everything going perfect in, in Douglas County and, and, of course, that's everyone's goal is to have a perfect system run by human beings that never will be. But the idea of making and having another opportunity to improve and looking at

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something different that's working in different places around the country, I think we should, we should have that discussion. If there's ways to improve this bill, I'm, I'm open to any ideas.

WAYNE: Any questions? Senator Holdcroft.

HOLDCROFT: Are there any specific things about the difference between what you're proposing and what is currently being done, such as, say, home visits? Are you-- is there anything along those lines that you're aware of?

McDONNELL: Well, I think, I think it brings more of law enforcement and Corrections to the forefront based on dealing with the, the pre-adjudication and trying to work together, looking at some of those, those tools that are available and maybe better communication, but also trying to make sure that we look at public safety first and then second with those programs and, and services that we can help that individual that has been charged with a crime.

HOLDCROFT: Thank you.

WAYNE: Any questions? Yes.

McKINNEY: Thank you. Senator McDonnell, I know that Sheriff Hanson is new to being a sheriff, but Don Kleine isn't a new county attorney. And from the testimony, he's been at the table with the county when they put together this program. Did he give you a reason why he didn't like the program that he's been at the table?

McDONNELL: No.

McKINNEY: No? OK. Thank you.

McDONNELL: But I never asked that either.

McKINNEY: All right.

WAYNE: Any other questions from the-- Senator Blood.

BLOOD: Thank you, Chair Wayne. Since-- I know you heard me ask this question, I'm going to ask you the same question. Looking at the fiscal note, have you explored yet other options outside of, of the fiscal note as far as the funding that is available at the federal level, especially to maybe do this program?

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McDONNELL: So serving on Appropriations and, and I, I was shocked by the fiscal note. But at the same time if you look at an incarcerated individual in the state of Nebraska, we're looking at--

BLOOD: It's really expensive.

McDONNELL: --\$40,000 a, a year at roughly \$110 a day. But I, I just-- that fiscal note I, I felt was a little high. Again, we'll look into that. If there's federal monies available, I don't know, but we will look at that also.

BLOOD: Thank you.

WAYNE: Any other questions? Seeing none, thank you for being here.

McDONNELL: Thank you.

WAYNE: And that'll close the hearing on LB110. And next, we'll have LB631. Senator McKinney, welcome to your Judiciary Committee.

McKINNEY: Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Terrell McKinney, T-e-r-r-e-l-l M-c-K-i-n-n-e-y, and I represent District 11 in the Legislature, which is north Omaha. And I'm here today to discuss changing the makeup of the Parole, of the Parole Board and what that is envisioned to look like for the state of Nebraska. Today, I am, I am discussing LB631 which addresses the, the necessity of the Parole Board reform and the specifics of my legislation that will make this possible. This bill will require both formerly incarcerated individuals and an individual with restorative justice a reentry background to have a place on the Board of Parole. In the case of hearings, the board cannot make any decisions unless four members are present and the board will be prohibited from missing more than three meetings per year. The decisions to deny an individual parole would be prohibited if the department of punitive services does not offer or delays programming due to operational issues such as staffing shortages, maintenance issues, and a lack of funding. For the most part, we're all aware of representation and significance to proper inclusion and diversifying the space. When it comes to Parole Boards, there should be no difference. When there are people on a, on a Parole Board whose experiences reflect the reality that those before, before them you find empathy in their decisions. Empathy due to an immense understanding of the system, making space for formerly incarcerated individuals on Parole Boards offers the possibility of a worldview that may not be considered by someone who doesn't share a

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similar background. This leads to the next element of this bill. Along with the importance of representation of incarcerated individuals on the Parole Board comes the need for experience and restorative justice and reentry. We don't only need empathy in hearing, in hearing decision-making, we also need the wisdom of what life is like for incarcerated persons returning to society and all the potential roadblocks that could come with, with that. Show me a more suitable person to assist incarcerated individuals with a successful transition to their communities after they are released than someone with experience working with-- working to help formerly incarcerated individuals and those who understand what it's like to work with victims and their families. I think these individuals are critical to their knowledge in navigating the complexities of reducing the unnecessary burdens placed upon reentering Nebraskan communities and being a bank of resources that bridges post-incarceration reentry efforts such as providing supportive services, assists in job placement, facilitating access to drug free housing and, and, and other things. The need for LB631 is just not for incarcerated individuals, it's for rehabilitating incarcerated individuals through reconciliation with victims and the community. Guidance is needed with being released back into society, especially after decades inside. A Parole Board should consist of people who are aware of restorative justice guide-- of what restorative justice guidance looks like. Restorative justice encourages collaboration and reintegration rather than coercion and isolation. It's necessary to have someone on the board who understands how to accomplish this in a way that demonstrates respect for all parties involved, including victims and incarcerated individuals. LB631 would also prohibit denying parole if there's a disruption of programming due to operational issues such as staffing shortages, problems with maintenance, and a lack of funding. Matters outside the scope of incarcerated individuals' control should not contribute to the decision to deny them parole. According to a report by the Crime and Justice Institute, also known as CJI, sentence lengths increase on the front end of criminal justice systems, releases from prison through sentence expiration released to post-- post-release supervision of parole plateaued on the back end. In 2018, 78 percent of people eligible for parole were granted. Two years later, that percentage dropped to 58 percent. At the same time, people automatically released on parole spent longer, longer times in prison ahead of releases, 60 percent more, more, more time than in 2011. And, and some-- fewer people were granted parole and when released they had been in prison a lot longer. A huge problem with our overcrowding problem is the length of stays and the amount of people staying. The

report also stated that a, that a variety of factors have contributed to this decline and parole rates increased in time served, including longer sentences at the front end, a parole process with multiple meetings and reviews and the number of criteria the Board of Parole must evaluate, many of which are subjective and unrelated to public safety. As described above, imprisonment harms individuals' health, economic stability and positive relationships, all of which may contribute to increased criminal involvement following releases. Board members should also be present for hearings and miss no more than three hearings yearly. I understand that life happens, medical issues, family issues and those type of things, but the opposition to this part of this bill seems to care more about the Parole Board than those seeking a second chance and to, and to be released back to society, get back to the families. And I have an amendment, I meant to get it in a lot sooner. So that's my bad and on me. I introduced, I introduced it this morning, but I'll, I'll talk about that. So after introducing this bill, I realized it was missing, missing some much needed elements. So this is the reason for the amendment. Board members must be able to make decisions clearly without bias and any impartiality. The amendment will require the Board of Parole to adopt rules and regulations that include clearly defined, easily understood written mission statements and strategic plans encompassing public safety and rehabilitation, procedures to ensure that victims are appropriately notified and given the opportunity to provide input and rulemaking processes, a requirement that board members receive initial and ongoing training of cultural competency, implicit bias, and understanding of the historical perspective of how and why parole was graded, the powers and duties of the board and ethics. Such training shall address current suggested best practices and enhance and strengthen members' decision-making skills. Another provision is the code of conduct for board members. I heard yesterday that they were arguing at hearings and the public could hear it. Just super dysfunctional. Also a requirement, requirement and procedures for the board to incorporate evidence-based practices that reduce recidivism, this includes, but is not limited to, a requirement that the board measure performance outcomes and develop transparent written criteria that shall be considered when making decisions on whether to grant or revoke parole and when setting the conditions of parole. Another, methods by which the board will enhance opportunities for the successes of people released on parole by collaborating with partners within and outside the criminal justice system, supporting the supervision of people released on parole in their communities, employing informal social controls, and enabling people released on

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parole to participate in meaningful supervision processes. Another, policies and standards that will assist in ensuring neutrality, impartiality, and objectivity as an "integral" part-- integral part of the board's culture and practices. And there's another section, this section applies [INAUDIBLE]-- so this sec-- Section 5 of the amendment, it says: This section applies to the Board of Parole whenever it makes a determination of whether to grant or deny parole, sets the conditions of parole and determines the sanctions of-- for a parole violation. The Board of Parole shall serve as a neutral, impartial, and objective decision-maker and shall be insulated from undue influences of specific ideological views and positions and from predetermined conceptions of desired outcomes of proceedings before the board. If the board collaborates with or receives input from other entities within the criminal justice system, the board shall do so in a manner that respects and reinforces impartiality, neutrality, and objectivity. The board shall consider all evidence regarding the committed individuals in an impartial, objective, and neutral manner. To close, the Board of Parole has an important role in our state and our efforts to address our failed criminal justice system. Admissions have declined and the length of stays are up. So if admissions continue to decline, then it's clear that we have to address the length of stays. This cannot be solved by building another prison or two prisons. We must have a functioning board that understands that those-- that understand those that come before them, one that is present and unbiasedly willing to listen to all sides, incarcerated individuals, victims, victims and their families, and other concerned parties. And I'll answer any questions.

WAYNE: Any questions from the committee? Senator Holdcroft.

HOLDCROFT: Thank you, Chairman Wayne. Thank you, Senator McKinney. Appreciate it. I was just looking at the amendment, and I'm just curious on page 2, line 24, it looks like a clean-up where, you've, you've, you've taken out a section about the Governor declaring at a, at a specific date, July 1, 2020. Obviously, that's in the past. Was there anything specific or significant about July 1, 2020?

McKINNEY: He declared a correctional system overcrowding emergency.

HOLDCROFT: Yeah, why, why was it July 1, 2020? Was there a reason for that or is it just that was--

McKINNEY: That was when he declared it. That's when-- yeah.

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HOLDCROFT: OK. Thank you.

McKINNEY: Yep.

WAYNE: So previous Legislature said that it-- put that in there that by a certain date the Governor had to declare overcrowding and, fortunately or unfortunately, when Bill Drafting is seeing language that it's past, they, they try to delete it and clean it up. So it does cause some confusion on drafts. Any other questions from the committee? Seeing none, thank you for being here. Are you going to stay for closing?

McKINNEY: Yeah.

WAYNE: All right. First proponent. First proponent.

JASON WITMER: I'm only going first because I have to leave.
[INAUDIBLE]

WAYNE: Welcome back.

JASON WITMER: Thank you. Jason Witmer, W-i-t-m-e-r. I'm speaking on my own behalf, although I will be mentioning an organization that I am employed with. I've read this bill, as have you all. I don't have it right before me, so I'll be speaking how I read it. But one thing it does to start off with is it includes diversity, it includes different elements, and in my work spot, in my workplace, we work with people coming out of Department of Corrections. I myself has spent considerable amount of time in the Department of Corrections. And, you know, long story short, the individuals in there has-- that were working on themselves, essentially, as everybody likes to say has rehabilitated me. And they've done that by, like, reconnecting me back to my humanity in a sense because they showed me humanity. Right? And so in the workplace that I have now, I've been out years, I volunteered, etcetera, and I got involved with a nonprofit organization named the Mental Health Association of Nebraska. And one of the things they do, just one of the many, is they provide housing for those coming out of Department of Corrections. But also what they do is they employ people who others may not employ. Serious mental health, had passed it-- of serious mental health, I have past records of addiction, myself with incarceration. And in doing so and through training, we are relating with individuals in able to walk a different path. They're able to have somebody speak essentially the same language. I work in another area of that where it's oftentimes with

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people with serious mental health and people who I think I wouldn't relate to. However, my time invested with individuals who have backgrounds that at once we would just say, like, you can't-- we love to hear your voice, but we don't think you should work in, in this spot. Right? And seeing that I have learned that the change is dramatic. We, we often use the word peers, peers. The change is dramatic and you can relate with almost anybody. What this will do is have people put in place to have different relations and how they see things. But also what this bill says, this is not just going to be anybody, it's not going to be pulling somebody out of Department of Corrections and just sitting up there. It's going to be people we've vetted that they've come out. They have been invested in the community. The community also has an investment in them and it's a double regulation. It's not only going to the Governor, but it also is going to you, I believe, to look at this person and, and put them in place. So there's more here than just the, the fearmongering that's going to be, like, we don't want certain people sitting on the board because they'll just say they'll let anybody out. But I have family in the community. We all have family in a community. We all have people we love and we don't want to see hurt. And most of us been on the other side, such as myself, of seeing my mother murdered. So I know the different elements of this. This is not just empty space of just somebody just trying to throw something in there.

WAYNE: Thank you for your testimony. Any other-- any questions from the committee? Seeing none, thank you for being here.

JASON WITMER: Thank you.

WAYNE: Appreciate it. Next opponent-- proponent, sorry, proponent. Proponent.

NATURE VILLEGAS: All right. You got me. How you all doing?

WAYNE: Welcome.

NATURE VILLEGAS: Thanks for having me. My name is Nature Villegas, V-i-l-l-e-g-a-s, and I won't repeat a lot of what Jason said, but I do also piggyback a little bit on the peer support. I actually work with the Community Justice Center and we are a restorative justice organization and restorative justice isn't a new thing. I think I've sat in this very spot and brought that up before. And what this, this bill would do would actually create that space because it would involve people from community, the victims and offenders. Right? And

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what I've learned by doing this work, I'm doing this work because restorative justice approach was done with me. So I, too, have been to prison. I've also worked with that agency and did the REAL program where Officer LPD would call us and send a referral and I show up to the door instead of the officer and we get further right. I also want to share briefly, I, I-- the cherry-picking that happens in parole is, is a problem. And I was given a false charge of kidnapping my daughter that I had in prison and left prison with. And I-- my parole officer-- I had to turn myself in. It was a felony. And the DOC and Parole Board follow a certain protocol that it really doesn't matter what happens. And what we think would be common sense isn't so much. And so if I, I go in with the kidnapping charge, they think, oh, this is terrible, throw her away, because we're a throwaway society. My parole officer even called in and said, this is not what happened, told the story, and I was naive enough to think the Parole Board would look at things and do what was right in the situation. However, that's not what happened. And that kidnapping charge was used to try to get me to sign over my rights of my children. And when I refused to do that, I was sent back to prison. I think that if we take this approach of LB631, that would alleviate some of that cherry-picking. It would allow procedures to happen in a way that are actually just and I will reiterate what Jason said. When we return in whatever space we're in, we're not giving freebies away. In fact, we're probably even more strict on accountability because that's the one thing that we had to learn and, and do ourselves. And so we require highly of others. And those of us that are out here living accountable, we represent those inside that, that that they wanted-- they taught us that, you know, that they don't have that opportunity yet. So it's important that when we're given these opportunities, we really utilize that space. So it wouldn't be freebies like giving things away. We honor the work we've done to be where we're at in our life and there are others that, that want to honor that space as well. So I am definitely in favor of LB631 and the restorative justice process. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

NATURE VILLEGAS: Thank you.

WAYNE: Next proponent. Next proponent.

REX WALTON: Thank you, Senator Wayne and committee. My name is Rex Walton, R-e-x W-a-l-t-o-n. I have been working for the FEAST Program at our Saviors Lutheran for ten years. I taught for four years at the

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Nebraska State Penitentiary in the educational unit in a program overseen by the Lutheran Church. We had a 12-week short program and then a continuing long program with writing and free writing for many residents out there. And I speak for them, of course, since they cannot be here. One of their main concerns has always been the fact that the parole system and its delays adds to a sentence that's already been so onerous and so difficult for these fellows. That is the big concern, is that we're adding to their sentences and that in itself is a horrible thing. So any-- anything that we can do to improve the parole system, to help speed the process of parole hearings and getting people out of prison into good programs outside, for me and for them, is the most important thing that I can think of today. And I thank you for your time.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

REX WALTON: Thank you.

WAYNE: Next proponent. Next proponent. Now, Spike, there's, there's five bills, you only get to testify on two so pick, pick wisely.

[LAUGHTER] Welcome back.

SPIKE EICKHOLT: Thank you. Good afternoon, Chair Wayne and members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name is spelled E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU in Nebraska in support of LB631. You're going to get my testimony, so I won't read from it. But what Senator McKinney says is accurate and is right that one of the issues identified by the CJI group, that work study that was done in the last year or so, was that we are under utilizing the parole process. In 2020, only 58 percent of the eligible offenders were placed on parole. And what we see trending from 2011 is that people are staying in prison longer. I think you all understand the goal of what parole is supposed to be. It's a transitional supervising time from prison back to community. One of the things I'm having passed out is actually the Department of Corrections quarterly population summary. And if you look at that, looks like this document here, if you look at the third page of that, and this is the most recent publication, page three indicates those numbers of prisoners who are in the prison system who are past their parole eligibility date. And as of third quarter, 2022, there were 943 inmates in the prison system who are parole eligible. In other words, that's almost 1,000 inmates of the 5,800 inmates that are in the prison system. Now, admittedly, some of them perhaps should not be paroled. But one

feature of the number of people who are in the prison system, if you're a parole eligible, that means you're close to your release date anyway. Right? That's just generally how the parole system works. You're-- well, I wouldn't go into it now, but basically when you talk about parole eligibility, you're being close to be released in the community. Senator Geist has LB50, Senator Wayne has LB50-- LB352, which incorporates a suggestion from the CJI group that is complementary to this bill, and that is this concept of an accelerated parole or a presumptive parole for those offenders who are eligible and have not violated any significant rules while in prison. And I think it's important because LB631 not only provides for a diversity of makeup on the Board of Parole, it does require regular meetings and attendance and a quorum requirement for the board to do their job because it is an important function for the state of Nebraska. And the state should utilize it not just for purposes of addressing the overcrowding problem, but really for purposes of enhancing lower recidivism and meaningful transition from prison back to the community. I think that's all I have, but. And also to answer what Senator Holdcroft asked before, the reason that date of July 20-- July 1, 2020, that was a date that was chosen in 2015 when the Legislature did do a number of reforms in response to an earlier recommendation from the CSG group. And the idea was, is that when we got to that date, the projections and the hope were the Governor would never have to exercise that but, unfortunately, we've been in a state of overcrowding emergency since July 1, 2020, to date.

HOLDCROFT: Thank you.

SPIKE EICKHOLT: I'll answer any questions if anyone has any.

WAYNE: Any questions from the committee? Senator DeKay.

DeKAY: Thank you. Thank you, sir. I should have asked this question before. When you're-- and I don't understand, but when you're up for parole is that at the end of the sentencing or is that for early release or, or a combination of either one?

SPIKE EICKHOLT: Sort of. It is at the end of the sentencing and the way that the parole works, and it's different from what we call post-release supervision and it's different from probation, but what parole means is kind of based on this idea that somebody does something wrong, they should go to prison for a while, and they should be supervised for a while from when they go to prison back to the community. They should go in, learn something, and come out better.

And in the meantime, when you're sort of transitioning them back, the state should have some ability leverage support over that person. Typically, the way it works if someone's parole eligible, the judge will determine when they are, and that's part of their sentence. So, for example, if the judge gives a sentence of, say, four to eight years and you've seen that in the paper before, that means they must serve four years minus any kind of credit they got sitting in the jail, minus good time as long as they get it to com-- before they are parole eligible. So the bottom number means how long they got to be in prison before they can go in front of the Parole Board. If they don't want parole or they don't get parole, then they have to serve whatever the top number is. We have a problem-- we had a problem that was identified in 2015 and it was also identified by the CJI group of what they call flat sentences or people jamming sentences. That's not ideal because what you have then is you have people going to prison, doing their time, getting out, and they're done with their sentence, they're free. And what you see for those people who do jam or do complete their sentences that way, they just have a higher recidivism rate. They're more likely to get caught, again, because they're going to likely reoffend again because they didn't learn anything. And unfortunately what you have with the condensed flat sentences, you do have a high number of people who aren't interested in parole. They'll just do the time and be done with it. And that's really what most professionals and what people recommend is not ideal for reentry and supervising people.

DeKAY: That's what I was trying to [INAUDIBLE] because of was said, you know, it's adding more time to, to their sentence or if they're [INAUDIBLE]. That's where I was confused on how if it dealt with early release or either one, so.

SPIKE EICKHOLT: It's not necessary early release because the judge when they sentence them sort of anticipated what they would do. Used to be a time a judge in Lancaster County would regularly give a sentence for these younger guys of like one to ten years. So they'd be in prison just for a little bit and then they'd be supervised for a long period of time. Because if they're out during that supervised time and they screw up and miss a drug testing, they test positive, they reoffend, they go back to prison. And that's how-- that's sort of the carrot and stick.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here. Next proponent. Welcome.

JASMINE HARRIS: Thank you. Good afternoon, Chair Wayne and members of the Judiciary Committee. My name is Jasmine Harris, J-a-s-m-i-n-e H-a-r-r-i-s. I'm the director of Public Policy and Advocacy at RISE, and we focus on rehabilitative programming for people who are incarcerated and coming out from incarceration. And this is the problem with not having written testimony, because you hear everything else and you want to try to answer all the questions and follow up, but I'll stick with what I had in, in mind, which is the part of this bill that would diversify the Parole Board with individuals who have previous experience and those who work in this space. One of our biggest things at RISE is our reentry services that we provide, and majority of our reentry specialists are individuals who have walked through reentry themselves. And they-- one of the tasks they have at hand is to prepare people for their Parole Board hearings. And we have that partnership where we're able to go in and sit with our individuals as they're up for parole, Parole will ask them, you know, our reentry specialist if they support this and things like that. And I think when you have that much experience, when you have the ability to work with people as they're reentering, you should be able to have that opportunity to serve on the board who also looks to you to give them advice on how someone is advancing or that trust that someone is advancing in their reentry planning properly. I also think that individuals who are service providers who are doing this work give great insight into that process. So when you have different perspectives on the board, I think it, therefore, then expands how holistically we can look at the parole process and people who are coming up for parole. And so for these reasons, RISE is on, on record for supporting LB631 and ask that you advance it out of committee.

WAYNE: Thank you. Any questions? Senator Holdcroft.

HOLDCROFT: So thank you, Chairman Wayne. Thank you for coming and testifying. Do you have a, based on your experience, do you-- have you ever sat in on the Parole Boards or, obviously, you know the results of the Parole Board working with your clients?

JASMINE HARRIS: Yes. The position I had before this, I was the post-release program manager so I created the whole case management process of how we are going to walk alongside individuals and the Parole Board hearings is one of the things we put in there. So that way we're preparing them. We're going to the parole hearings, sometimes we're picking people up at the-- from the parole hearings to get them to their parole officers. And we create those relationships to work with individuals and their parole officers.

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HOLDCROFT: So you have an opinion with the-- on the current Parole Board? I mean, how it works, how well it works or doesn't work.

JASMINE HARRIS: We've testified on, like, LB920 from last year and some of the bills, LB352 on those processes of streamlining it. We think that there could be ways where it's not as objective and-- or as subjective and can be objective when we're looking at that kind of, like, that fast track, if you will. There's been no misconduct reports, things like that, and how are we able to ensure these people are going through. There have been times where there hasn't been all the Parole Board members there so we've seen different variations of how effective it's been.

HOLDCROFT: OK. Thank you.

JASMINE HARRIS: Yeah.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here. Next proponent. Welcome.

FRAN KAYE: Thank you very much, members of the Judiciary. My own senator, Senator Geist. My name is Fran Kaye, F-r-a-n K-a-y-e, and I'm here to support LB631 speaking for myself and the RAN Racial Justice Policy Group. This is a carefully targeted bill that corrects three problematic issues concerning parole in Nebraska. As several people have noted, there's been times when Parole Board members have not been particularly diligent in attendance, which sometimes leads to a denial of parole for people who are well-qualified to be released. A friend of a friend had a job lined up and a house lined up, and he didn't get parole because Parole Board members didn't show up. They held the job for him, but not the house. Such incidents only show that Nebraska's carceral system does not respect its own rules, did not respect justice for ex-offenders or even respect the safety of Nebraskans. LB631 also clears out another bottleneck to rehabilitation and release by establishing that no one can be denied parole because NDCS has failed to provide an opportunity to complete required programming. And again, I've seen this happen to people. These programs can often be provided in the community and should not be used to artificially extend time in prison. Perhaps most important, LB631 changes the composition of the Board of Parole. It requires that members must be chosen to provide gender and ethnic diversity, background in restorative justice and reentry, and, most important, to include a member who has been previously incarcerated. These individuals certainly have the most experience and the most astute insights into

how ex-offenders think and what motivates them. The current rules for the makeup of the board favor members coming from Corrections and prosecution. Their training and point of view directs them to be overly suspicious of people who have been incarcerated, leaving individuals behind bars when their release would make us all safer on the outside, as well as reducing overcrowding on the inside. Thank you for your time.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. Next proponent. We'll move to opponents. First opponent. Welcome.

BOB TWISS: Good afternoon and greetings to you, Chairman Wayne, and other members of the Judiciary Committee. My name is Bob Twiss. That's B-o-b T-w-i-s-s. I am a member of the Board of Parole and I, I appear today representing myself and not on behalf of the entire Board of Parole. Want to make that perfectly clear. And I've hesitated in the past to appear, and I'm glad I came today because of the things that were said as well. I am in opposition to LB631. There's something unique about the, the Board of Parole, but we still are held accountable. The Board of Parole is a constitutional entity. It's designed to be independent. It's designed that each member of the board is also independent of each other. None of the five members of the board are ever appointed at-- well, I can't say ever, should not be appointed at the same time, a year apart, so. It's a six-year term. So there's a year when no one is appointed. When I hesi-- I going to run out of time if I go on a tangent, but it's designed to be independent and there is a check in the balance and that is the Board of Pardons. The Board of Pardons can remove a Parole Board member for cause. And when we-- when I've heard you say that we don't show up, there's a good explanation here. We are not employees of the state of Nebraska, technically, we go-- we are paid through the executive branch so we are treated just like judges. We have no vacation time, sick leave, medical leave, funeral leave, anything of that nature. So what came out in the media previously, if you just take a normal vacation time for those that are on the Board of Parole, and that's without seniority, some employees that are some of the board members have been on at least an employee of the state for 20, 30 years so it's more than the normal two-week time frame. There was never, ever a time that the Board of Parole did not have a quorum. I want to underline that because that was in the media. It never, ever happened. We've had a couple cases, myself included, we've had at least a three-person quorum, but I voted no one day.

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WAYNE: Thank you for your testimony, I'm sure somebody will--

BOB TWISS: Oh, my gosh.

WAYNE: --no, it'll happen, I'm sure somebody will ask a question. Any questions from the-- Senator Geist.

GEIST: I do have a couple of questions, but I'll let you complete your thought.

BOB TWISS: OK. Never, ever a time. I voted no one time. There's another time that I did recuse myself. There was another time when someone else on the board recused themselves. So for the most part, the individual was deferred for one month and one month only.

GEIST: So here's my question. Some of us aren't attorneys and don't know everything about the system. So would you let us know about the Board of Pardons versus the Board of Parole? How many people are on the Board of Pardons and who does that consist of and how many people are on the Board of Parole?

BOB TWISS: OK. Thank you for the question, Senator Geist. There are five people on the Board of Parole and the requirement-- some of the requirements are very, very important. Senator McKinney's bill goes way, way too far on the technical aspects, and each one of the five members of that board is delineated in Senator McKinney's LB631 for specificity. So that's going to limit the Governor, the Governor who makes the appointments to the Board of Parole. And we appear before you and ultimately the Legislature says yes or no. And it's gone both ways.

GEIST: And you have a six-year term. Is that-- you said you have a six-year term.

BOB TWISS: That is correct. A six-year term. That is correct.

GEIST: And now for the Board of Pardons.

BOB TWISS: The Board of Pardons is made up of the Governor, Secretary of State, and the Attorney General. They are distinctly different. The key difference is, is that the Board of Parole, we cannot alter or change-- we have no authority to change a judge's sentence at all. And incidentally, there's never been a case where the Board of Parole has added to a sentence. We're not in that business at all. That's been a misnomer. Did I answer your question?

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GEIST: You did. Thank you. Yes.

WAYNE: Any other questions from the committee? Senator Holdcroft.

HOLDCROFT: Thank you, Chairman Wayne. Thank you, Mr. Twiss, for testifying. Can you give us a little bit about your background, how you were-- how were you appointed? What's your experience? And also, can you tell us something about your schedule? I mean, how much time do you have to put in for this?

BOB TWISS: OK. Thank you very much, Senator Holdcroft, for that question. Here is the schedule. A lot of people don't believe that we meet almost every day. It's more than a 40-hour week. Much, much more than a 40-hour week. About half of our month--

WAYNE: Sorry, I don't-- we don't allow props in here. You can--

BOB TWISS: I'm sorry?

WAYNE: --you can make copies and pass it out, but, but holding up stuff is not-- it's a prop, we don't allow props in here.

BOB TWISS: OK.

WAYNE: So if you want to pass it out or send it to the committee that's fine.

BOB TWISS: About half of the month is hearings, the other half of the month-- the first half of the month is our reviews. We have four-- and hearings, we insist on a full board if we can have that. Reviews are conducted by two or three people. We divide up into teams so we can get more reviews conducted as well, so. And hearings and also review of parole hearings that is more commonly in my nomenclature is revocations, that's every other Tuesday. So there's four real things other than signing off on arrest violation reports and also warrants. But there's four key things that we do, and that is reviews and then hearings. And if we set them for a hearing, it's two years out. By statute, we have to see them within a year. So that's called an informal interview. And the fourth thing is the review of parole hearings or revocations. So reviews, informal interviews, revocations, and hearings which are the key aspects in there. And I'm very proud of what we have done as well. I have some figures and we see thousands, thousands of people a year. And that is-- I'll just give you a couple ideas here. This was 2020, there were 2,200 cases, 2,200 cases of key reviews, and we-- and 1,100 set, set the case for a parole hearing. A

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thousand of those were deferred for future reviews. And I am going to go off a tangent a little bit here. By statute, we need to see people, first of all, relatively quickly after they come in. But after that, they have to be within three years of their parole eligibility date. However, we can't set them. We can only set them within two years of their parole eligibility date. That's how some of those numbers grow in here. And 100 were deferred to a discharge date. And some of the primary reasons are the programming, seriousness of the crime, and the disciplinary issues. And I do want to comment on what was said earlier in terms of a short sentence, that does present problems and it presents problems for Corrections. It presents problems for us. If it is a short, flat sentence, let's say, one to one, and we've had that happen, we've also had it happen that people are parole eligible, eligible, the day they come in to prison because they've served time in jail already and they get that jail time credit. But there's no time to do anything with those people so they are typically paroled or deferred to what's called "mandatory discharge." And then hearings, this was in 2020 and so were the other figures, in hearings, there were 1,918 cases. Of that, we paroled 1,150, 600 were deferred for a later hearing. Some were denied later hearings, some deferred to their discharge date because there was not time to do anything with them. And often-- and I don't call it a mandatory discharge when people have been paroled once, twice, three times and even more and they have violated parole, come back, and then the time is such that we cannot do anything else with them other than defer them to mandatory discharge. So those jams are not really as significant as you hear from time to time. The jams are very, very small in percentage as well, less than 5 percent, less than 5 percent. And sometimes the, sometimes the individual prefers to jam, unfortunately. We prefer to parole them if possible.

WAYNE: Thank you. Any other--

BOB TWISS: Based on the close-- closure--

WAYNE: --any other questions?

BOB TWISS: --we were 16--

WAYNE: Hold on, sir.

BOB TWISS: --63 percent-- I'm sorry, go ahead.

WAYNE: Sir, it's not a monologue.

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BOB TWISS: Yep.

WAYNE: Any other questions? I mean, you answered the question and I had let you go for a little bit. Senator Blood.

BLOOD: Thank you, Chair Wayne. I just have a couple of quick questions. So at the very beginning you talked about how after you're appointed and you start serving that you don't receive vacation time or any benefits. Can you tell me what the average salary is for somebody on the Parole Board here in Nebraska?

BOB TWISS: We're, we're all paid the same.

BLOOD: Which is?

BOB TWISS: It's somewhere around \$85,000.

BLOOD: \$85,000.

BOB TWISS: And it might be a little bit higher.

BLOOD: So do you know that, that the Legislature we're paid \$12,000 a year and we're also constitutional but we meet as needed? So--

BOB TWISS: I'm sorry, you do what?

BLOOD: We're also constitutional in the Legislature. We get paid \$12,000 a year and we meet as needed. And so what I heard you say is that we don't understand the circumstances of how you don't get vacation and might need time off. You don't get benefits. Can you see why some people might think there's not a good balance if you're making \$84,000, which is way above the median income in Nebraska, why there might be an expectation that you should be there 100 percent of the time? Do you understand why there might be concern or an expectation that people feel that you're being paid that amount of money that you should be there to serve?

BOB TWISS: I'm not sure I understand your question. If you can rephrase it, I'll give it a shot.

BLOOD: OK. Let me reframe this. If you are being paid \$84,000 a year to do a specific job that you've been appointed to do, do you understand why people might be concerned that you're not there 100 percent of the time when you're making way above the median income here in Nebraska? In other words, you're being paid \$84,000 a year and

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there's concern that you guys aren't showing up. And at the beginning of your presentation, testimony, whatever, at the very beginning you said what we didn't understand is that you don't get vacations and you don't get benefits, but you don't, you don't get mileage or per diem or anything, right, you just get the \$84,000?

BOB TWISS: We do not get mileage.

BLOOD: OK. Do you understand why people might be concerned that you're not showing up when you're making \$84,000 a year?

BOB TWISS: We actually are showing up, contrary to what was, what was in the media and the big headline that just happened to conveniently hit last year, a couple days before the prison reform bill came up.

BLOOD: So--

BOB TWISS: But we are, we are showing, showing up. But I also do believe, strongly believe that we are entitled to some vacation along the way and also the normal type, type of leave.

BLOOD: Again, I, I just want to make sure that there's a clear understanding. I mean, we're constitutional as well. We don't get benefits as well. We don't get vacation as well. And there's still an expectation that we show up. So I guess that's, that's what I'm trying to infer to you. I'm really kind of fuzzy on why you're against this bill because you're saying it goes a little too far, really, all I'm seeing is an accountability bill. Do you think we go too far when we're asking for better accountability?

BOB TWISS: I'm sorry, is there one question or more?

BLOOD: That was the question.

BOB TWISS: What, what is the question?

BLOOD: So you had stated in your testimony that you felt that this bill went too far. That was your words. And my question is, is that I'm a little fuzzy on why you're opposing this based on that statement because I see this as an accountability bill that Senator McKinney is trying to bring more accountability. Is that the accountability part you're concerned about or what, what's too far? I'm not sure I got that in your testimony.

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BOB TWISS: Well, let me give you an example. Too, too far, and I don't think I answered your question either.

BLOOD: Well, but it's mine turn.

BOB TWISS: But too far is when we, we can only miss-- and, and we means 100 percent, and the article actually hit not that we didn't have a quorum, but we didn't have all of the board there.

BLOOD: I, I, I don't care about the article.

BOB TWISS: And that's true, but too, too far-- let--

BLOOD: I-- I'm just-- I'm trying to, to hone down--

BOB TWISS: OK.

BLOOD: --everything you just said today. I'm fuzzy on what you're saying the opposition is. You said that you felt that this bill went too far. And I'm not hearing in your testimony why you think that this-- I'm, I'm trying to really funnel down what you just said to me into, like, one sentence why you oppose this bill outside if you think it's gone too far because I-- I'm not hearing anything compelling and I'm confused.

BOB TWISS: It's going too far when it's only three absences that neglect, I believe, it's neglect. I've got to turn to it. Neglect of duty is on top of page 3 on, on the bill. Neglect of duty includes not attending three hearings. That's not three days of hearings. That's just three hearings. To give you an example, when we have a rather full roster, we don't even-- we work right through the noon hour. And likewise, if someone has to leave the room for anything, and generally it's to go to the restroom, then we're counted as being out of the room, as in the note, and we would be counted as being absent.

BLOOD: Not excused.

BOB TWISS: We would be counted as missing a hearing, a hearing--

BLOOD: So not excused.

BOB TWISS: --according to this bill right here, according to the language, we would be counting-- counted as missing. And as I said before, there are thousands of hearings, not just a few here and there. And it also, incidentally, and I'm looking at page 3, and

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that's line 7, and it says three hearings of the Board of Pardons. I think that was not intended to be that way. It does say Board of Pardons as it's written.

BLOOD: All right. Thank you, Mr. Twiss.

BOB TWISS: I'm all for accountability. As a matter of fact, that's one of the reasons I'm on, on the board is to keep the public safe.

BLOOD: Thank you, Mr. Twiss.

WAYNE: Thank you. Any other questions from the committee? So I have a few questions. I'll keep them kind of brief. What's the number one reason people are denied parole? What's the number one reason people are denied parole?

BOB TWISS: I'm not sure I can say a number one.

WAYNE: What's the highest reason?

BOB TWISS: I can't limit it to just one because I don't have all the data with me. But typically it's going to be a write-up that they had fairly close. And I'm not sure it's number one. Sometimes it's programming that comes in to it.

WAYNE: What programming do you guys offer? None?

BOB TWISS: We-- and this is a misunderstanding as well, we as a Board of Parole do not make the assessment, the assignment at all. Corrections determines that.

WAYNE: Would you want that authority?

BOB TWISS: I'm sorry?

WAYNE: Would you want that authority?

BOB TWISS: We do have that authority in one area, and that, and that is on domestic violence because, apparently, the program was there before I was on the board in Corrections. But for whatever reasons, and I think it was the lack of, of credible evidence that, in fact, domestic violence programs were effective. So that is something that the Board of Parole does. And we can only do that in community centers, the one in Lincoln, one in Omaha, or while they're on parole. I don't think I--

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WAYNE: So wait a minute, you parole, you parole people who have been sentenced to domestic violence prior to them completing domestic violence programming?

BOB TWISS: Sometimes we do and we have. And we're becoming more stringent on that. Now that-- sometimes depending on how serious the offense is, it, it does, it does happen. Most of the time our preference is to try and change their mind, motivate them to change their mind, come through transition, especially if there is a long time they'd be on parole and they also came in many years ago so they've been incarcerated many times.

WAYNE: So what if we required--

BOB TWISS: We'd rather see--

WAYNE: --what if we required a partnership or some kind of collaboration between Corrections and you on anybody that is four years out from eligibility of parole and we put that programming on you? If the excuse is programming and, and Corrections isn't doing it, then how about we eliminate that excuse and put that on the Parole Board?

BOB TWISS: I'm not sure how that would work, Senator Wayne,--

WAYNE: Well, I have a bill up next [INAUDIBLE].

BOB TWISS: --from this-- well, from this aspect because they're still incarcerated.

WAYNE: Yes. Yeah, they'll still be incarcerated. And according to state statute, they could-- Department of Corrections can declare any building a correctional facility. And so we, we basically will-- I'm just asking, if we create a, a program in which they're kind of like pre-parole and under joint jurisdiction between both you and DOC. But we put the programming on you to get them in programming since you've already opened the door on domestic violence.

BOB TWISS: I think it, it has some merit to it.

WAYNE: OK.

BOB TWISS: I, I don't really-- I can't answer definitively because--

WAYNE: Yeah, we're just having hypothetical.

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BOB TWISS: No, no, it has, it has merit, it has merit to it.

WAYNE: Thank you.

BOB TWISS: It has merit to get the programming done and to try and move people along.

WAYNE: Correct. All right. Cool. Seeing none, thank you for being here today.

BOB TWISS: OK. If I might, I just-- I didn't answer Senator Holdcroft's question, but he doesn't need an answer and that's fine with me.

WAYNE: No, sir. I mean, I just-- I was getting ready to move on.

BOB TWISS: Well, I'm, I'm happy--

WAYNE: It's not anything personally, it's what I've done in every committee hearing like this that once we move on, we move on.

BOB TWISS: Yeah, I'm, I'm happy to show up and I'm very proud of, of what we do.

WAYNE: I appreciate your testimony today. Next opponent. Opponent? Opponent? Seeing none, moving to neutral testifiers. Neutral testifiers. And the only reason why I say that, Mr. Twiss, just so you know, we had somebody yesterday try to come back to the hearing and, and answer questions. So I'm just-- once we move on, for the record, I try to be move on. No more [SIC] neutral testifiers. As Senator McKinney comes up to close, we have four letters of support: three-- I mean, four letters of the record: three in support and one in opposition. Senator McKinney to close.

McKINNEY: Thank you. You know, first, I wish I was making \$80,000, you know. But I guess listening to the opposition made me think that this bill is definitely needed for multiple reasons. But I do think we need different perspectives on, on the Parole Board. One, from those who have been incarcerated and a perspective from an individual that has experience in restorative justice and reentry, working with not only those formerly incarcerated, but also victims and their families. I do think that the Parole Board should be limited to only be able to miss three meetings, maybe three isn't the number, but there should be a number. And if you're present, you're present. If you go to the bathroom, you went to the bathroom, but you showed up. Don't, don't

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try to say like, oh, I've, I've missed three today because I went to the bathroom. You're present. You're there. Also, you know, at the latest public meeting, the Parole Board adopted a professional conduct rule and adopted it. And it was due to Parole Board members acting unprofessional and Mr. Twiss opposed it. The other problem is that the domestic violence program that is offered in the community and many inmates inside can't get the program. I'm with Senator Wayne, we need, we need to find a way to increase access to programming. I think it will make all of us a little more comfortable with the parole process. I think that's an investment we should make. I don't think, you know, just building a new prison complex is the answer. I think we need to think outside the box and think of, think of some innovative things to address our, our overcrowding process. But the Parole Board is an important body or agency, whatever we want to call them, in our fight to change the criminal justice system and members of the Parole Board should be culturally competent, they shouldn't be biased, and they should understand that people that they have taken a job to look at and check to see if they're-- they should or should not be released from prisons. And with that, I'll answer any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. And that will close the hearing on LB631 and open the hearing on LB76. Senator Geist. Welcome.

GEIST: Thank you. Thank you, Chairman Wayne. And good afternoon, members of the Judiciary Committee. For the record, my name is Suzanne Geist. That's S-u-z-a-n-n-e G-e-i-s-t, and I represent District 25, which is the southeast corner of Lincoln and Lancaster County. LB76 is the compromise amendment bill for LB1010 from last session. We voted this bill out of committee but ran out of time, were not able to debate it on the floor of the Legislature. So I introduce this bill as a result of a roundtable I held with many juvenile justice stakeholders two years ago. During the roundtable, it was mentioned that there was a reinterpretation of the law regarding adult and juvenile offenders on probation. This bill clarifies that the Nebraska Crime Commission shall provide access to an offender's name, probation officer, and conditions of probation to certain law enforcement agencies. The Nebraska Crime Commission would share this information in the Nebraska Criminal Justice Information Service [SIC], or NCJIS. Sharing this information, will help keep law enforcement safer and the public safer. Another benefit of sharing this information is that law enforcement will be able to share with a probation or parole officer any violations and assist in getting the offender back into compliance.

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Lastly, a juvenile's name, the name of the, name of the probation officer and terms of probation will only be available upon request by law enforcement when a juvenile court order states that a juvenile shall be placed on electronic monitoring and the order states that the data from the electronic monitoring can be shared with law enforcement. Electronic monitoring devices are being used on more youth and provide an alternative to detention, which is why I included youth in the bill. I would also like to clarify that law enforcement is obligated to keep the GPS history of a juvenile confidential and they're not allowed to share this information. With that, I would be happy to answer any questions.

WAYNE: Any questions from the committee? Seeing none--

GEIST: I do plan to stick around for closing.

WAYNE: --thank you.

GEIST: I'm not going anywhere.

WAYNE: First proponent.

TIFFANY PELLEY: Hi, my name is Tiffany Pelley, it's P-e-l-l-e-y, and I'm here in support of that bill because I have a troubled daughter who's been on an ankle monitor with a tough strap and she ran. And I couldn't get a hold of probation, I couldn't get a hold of the CARES officers to track her. The only people that I could ever get a hold of was law enforcement. And they were never able to track her because probation was the ones that would have that information. When my daughter runs, she would put herself in very dangerous situations. And so I feel like it's very important to have law enforcement on the same page when it comes to tracking of the GPS. And that's all I got.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

TIFFANY PELLEY: Thank you.

WAYNE: Next proponent, proponent. Welcome back.

AMBER WOOD: Amber Wood, A-m-b-e-r W-o-o-d. Karly Rain Wood. You've heard about her. Please remember her name and say her name. Twenty years old. She was shot eight times by repeat felons with guns just under four months ago. Can you see that felons and violent offenders and repeat offenders do not care about your rules, guidelines or laws,

even while on pretrial probation or federal supervision? There has to be monitoring and has to be a record and accountability of that monitoring. The system and judges' research scales who let these guys out failed the public and my daughter and now she is dead. Remember, there was nine people shot there. This bill addresses at least some of the things that could help public safety. I have a question for you. How many criminals who are repeat offenders or on pretrial or monitoring re-- re-offend? That number matters to our public safety and that number mattered to Karly's life. Do your research. How many victims are at the hands of repeat offenders and how many were on GPS? How many were actually being monitored? Where is the reporting on this? As I understand, several criminals cut their monitors or simply do not comply. In our case, a four-time felon completely, several times, didn't comply and yet, stayed free. That's unacceptable and somewhat bad parenting. Law enforcement deserves all the tools to monitor, locate, capture and arrest. We should not be arguing this one bit. Nebraska needs to do better. Nebraska should set an example. The government and this Judiciary Committee has a duty to keep our public safe, because right now you're failing. And if that means actually monitoring GPS or making a potential guilty defendant uncomfortable, so be it. I hear a lot about rights, but I hear a lot about criminal rights. Where were my daughter's rights? As far as I understood, arrests aren't made and charges aren't brought unless they have enough evidence to where they are likely for prosecution. So if you're a violent offender and you have to be monitored, making them uncomfortable before they get their day in court, who cares? When you are a violent offender, several rights and privileges should be taken off of the table, including GPS location privacy. This bill would help others like Karly. Karly Rain, again, was shot eight times. Karly did not have a criminal record. At 20, Rain Karly was a productive part of society and didn't ask for anything. Karly was robbed of a future and achieving her goals. I was robbed of my daughter. She did, however, as most taxpaying citizens, expect it to be safe from repeat, repeat criminals. Karly was shot by felons with guns who knew the rules and repeatedly broke them and we kept letting them out. They have zero regard for her life, let alone the law. You should be fighting for the victim and public safety, not for the repeat offender. Which side do you stand on?

WAYNE: Thank you for your testimony. Any questions from the committee? Seeing none, thank you for being here today.

AMBER WOOD: Thank you.

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WAYNE: Next proponent, proponent. Welcome.

AARON HANSON: Thank you. Sheriff Aaron Hanson, A-a-r-o-n H-a-n-s-o-n, Sheriff of Douglas County. Back when in my previous profession, when I was a sergeant on the gang unit, in, I'd say, 2015, '16, '17, of that, that time period, where we truly saw some of our lowest levels of violence. Gang violence. Gun violence. What was happening simultaneous to that effort, in that time period, was strong collaboration. Strong collaboration between law enforcement, strong collaboration between probation and working together, both in terms of checking people, doing home visits and monitoring people appropriately, but also deciphering GPS data. That was a key combination. When there was a shooting or a high-profile incident that either resulted in a shooting or a homicide or was probably going to precipitate a shooting or homicide, we had the ability with that partnership to check GPS data and say, well, who was there? It's a clear indicator when you see a known offender, whose GPS location is showing up in a neighborhood where he or she has no business being in or else, they're at risk themselves-- maybe rivals may attack them. Those can be data indicators of an upward trajectory of violence. You can actually head off violence and homicides and shootings as a result of that smart usage of data. I support LB76 because many of us in law enforcement were, quite frankly, taken aback when the GPS data was removed. It was like blinding us and tying one hand behind our back. But even more so, it was, it was a breakdown of the collaborative effort that we had worked on so hard, which resulted in reductions in violence and crime and also, in my opinion, an improvement in rehabilitation. I'll take any questions you might have.

WAYNE: Any questions from the committee? Senator DeBoer.

DeBOER: Thank you. I was going to get your title wrong, Sheriff Hanson. Thank you for being here. Why do people get like, what's the range of reasons why someone might be on an ankle monitor? So is this-- can you be on an ankle monitor for a violent-- a previous violent offense? Is that something you could be on an ankle monitor for?

AARON HANSON: Well, I guess it depends on what type of supervision you're under. If you're under some type of probation, typically, the judge is going to order some type of GPS ankle monitor if it's going to be affixed or give the probation officer the flexibility based on the, the behavior or the progress or lack thereof, of the, of the probationer, to be able to place the individual on ankle monitor. In

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some cases, like in some, in some parole cases, the high-risk individuals that may be categorized as higher risk on parole, they may be on-- placed on an ankle monitor for a certain amount of time. It may be an individual and if we're talking about a juvenile, someone that is constantly running or at high risk of self-harm or high risk of human trafficking if, if they do not have an ankle monitor. So there's a variety of reasons. Typically, there's going to be a judge or a supervision figure that's going to decide on a case-by-case.

DeBOER: I know you worked with a lot of these kids who were on ankle monitors, one of the reasons I'm asking you. Can they be honest for truancy?

AARON HANSON: You know, I do think, I do think that there is some programs in Douglas County like the, like the home program that has the ability to use ankle monitors for, for truancy. A lot of times, truancy is one of those violations that will usually coincide with, with other type of criminal behavior, unfortunately. It's usually a front-end indicator or, or a companion, parallel indicator to other, other dangerous things going on in that young person's life.

DeBOER: All right. Thank you.

WAYNE: Isn't the issue here separation of powers? I mean, aren't we just-- isn't that the issue, is that, that the judicial branch and the executive branch, without some kind of court order, can't just arbitrarily share data?

AARON HANSON: You know, I'm not, I'm not quite sure about that.

WAYNE: I don't know.

AARON HANSON: That's a good question.

WAYNE: Probably . I was just randomly thinking about it. Any other questions from the committee? Seeing none, thank you for being here. Next proponent. Welcome. It's your first time here this year.

MARCUS TAYLOR: Good afternoon, Chairman Wayne and members of the Judiciary. My name is Marcus Taylor, M-a-r-c-u-s T-a-y-l-o-r, here on behalf of the Omaha Police Department in favor of LB76. I've worked for the Omaha Police Department for over 19 years, 16 years of experience in our Criminal Investigation Bureau; currently, the lieutenant commander of our Gang Suppression Unit. We are strong supporters of this bill, because revision restores immediate access,

important information regarding all probationers, both adult juvenile and parolees. Secondly, it allows for electronic monitoring data to be immediately available upon request by law enforcement and overall, promotes a shared mission of enhancing public protection and safety, shared goals of assisting with offender rehabilitation and hopes that all individuals under this type of supervision becomes a productive member of our communities. The release of certain probation and parolee information to law enforcement restores what was extremely effective and efficient in the past. This used to be available via NCJIS and today, we have improved oversight and accountability for how law enforcement accesses that system. The sharing of this information enhances the valuable collaboration and relationships we have with both probation and parole and gives law enforcement agencies the ability to immediately observe if the probationer or parolee is in compliance with the terms of their supervision. This also enhances accountability, which is critical in the goal of offender rehabilitation and recidivism prevention. This would also, also unwittingly enhance both public safety and officer safety. If concerns are identified or a individual under supervision is in compliance, we can immediately share that information and pass that on, pertinent information to the probation officer or parole officer. This information allows investigations to be more efficient and effective in their investigative follow-up. And our goal is to seek the truth and justice for our victims and their families. In regard to electronic monitoring, community safety is at the heart of our support of this revision. Our focus and immediate request for this data will be in our efforts to address and investigate violent crimes and threats to public safety. Only a small percentage of our community members are responsible for the violent crime that we see within our community. And we understand that the majority of probationers and parolees are not involved in violent crime. However, a significant percentage of these individuals are capable-- who are capable of a violent crime are indeed, under these terms of supervision. This would be an invaluable tool to assist us in our pursuit of the truth and combating misinformation. We have multiple pending cases in which electronic monitoring played an integral part in identifying individuals under supervision as suspects, suspects and just as important, in the role of eliminating legitimate individuals, who are persons of interest-- to be able to eliminate them so that we can focus on legitimate leads. These critical investigations follow up on investigative leads in a timely manner is imperative for the solvability of crimes. Requiring an unnecessary step that could prolong apprehension of violent offender can lead to more

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victimization and retaliation within our community. Again, we will pass this bill because it'll prove our working relationships and collaboration. We believe that we have a shared mission here of public safety, also responsible and professional accountability. And also, our assistance with the rehabilitation process to include--

WAYNE: Thank you for your testimony. Go ahead and finish your last thought. Go ahead and finish your last thought.

MARCUS TAYLOR: --to include accountability, when, when that, terms of supervision have been broken.

WAYNE: Senator Holdcroft.

HOLDCROFT: I just [INAUDIBLE].

WAYNE: Oh. Any questions? Senator McKinney.

McKINNEY: Thank you. And thank you. So a part of your testimony or reason you support this bill is for access to this information for accountability. Is that right?

MARCUS TAYLOR: That is part of it. Yes, sir.

McKINNEY: So I'm, I'm sitting here thinking and it's like, oh, we want access to information and people who may be deemed as potentially bad people or whatever or that-- but you guys are opposed to the public wanting to see who are, who are on the Brady and Giglio lists. So you guys want accountability to be able to track people, but you all don't want the public to see who is, potentially, the bad actors who can't stand up in court. That's-- to me that's, that's very funny. But thank you.

WAYNE: I'm not laughing because you-- there was a question somewhere in there. No. I get it. So I do have a question. You said right now, there are pending cases that were crucial-- a GPS was crucial in-- at helping. So how'd you get that information?

MARCUS TAYLOR: Just-- I've worked in a homicide unit for a number of years, assault, assault unit. I'm speaking to a homicide detective, as well. I know there's, there's two particular cases that are pending right now, in which both individuals were on probation and we got information that they were particular suspects. One came at the beginning of the case, one came through Crime Stopper tips. We have to follow up on all that information. By getting that GPS information,

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we're able to eliminate them as being a person of interest. And a lot of times, the timeliness is what we're concerned about, because we can follow up quicker to, to, to either focus our efforts on where they need to be focused on or if we need to apprehend somebody, especially dealing with juveniles, that timeliness is, is super important.

WAYNE: But you were able to get that information under your current system, though. Right?

MARCUS TAYLOR: Yes, we were.

WAYNE: You just, you just want it faster.

MARCUS TAYLOR: Yeah. We want it faster, just because of the trends we've seen with-- within our communities, with violent crime.

WAYNE: This is an unfair question, so I'm, I'm prefacing you with that to say you don't have to answer it. But does timeliness thwart the, the Constitution of separation of powers? Don't answer that question. That's an unfair question. Cuz that-- that's the struggle that I'm trying to figure out is-- and it's not a good question. I can't ask the question because I, I got to do with some constitutional scholar who could help me research it. But it seems like there's a problem with the separation of powers. This is in the judiciary branch. And normally, you can't get this information right now. If you wanted my information, you would get a subpoena from a judge to get that through a court order. So in the previous bill that Senator McKinney had concerns about, two bills ahead, you're consenting to a search and seizure. And so, it seems that that bill acknowledged that you have to get some kind of consent or an order to get that information. And this bill does-- doesn't provide that same thing. So that's what I'm trying to figure out. It's an unfair question. That's why we have legal counsel and committee counsel to help figure that piece out. So I appreciate it. Never mind. Wasn't even a question. I just did a "McKinney" right there. All right. Any question-- any actual questions? All right. Thank you for being here.

MARCUS TAYLOR: Thank you for your time.

WAYNE: This is why you don't think and talk at the same time. Welcome back.

PATRICK DEMPSEY: Good afternoon, Chairman, members of the Judiciary Committee. My name is Patrick Dempsey, P-a-t-r-i-c-k D-e-m-p-s-e-y, and I'm here on behalf of the Omagh Police Department Police Officers

Association. I am currently the secretary of the Police Officers Association and a 13-year veteran of the Department. I appear today in strong support of LB76 and its continued efforts by the Legislature to address juvenile justice in a constructive manner. Young adults and juveniles in the criminal justice system are often the most in need of rehabilitative and restorative programming. Unfortunately, repeated contact with other offenders or influential adults make them prone to recidivism. Courts recognize this and use electronic monitoring systems to expand the data available to improve compliance with terms of their release. Because the number of court agents with access to this information is limited and their caseload's often prohibitive in making decisions on compliance in real time, providing electronic monitoring data to law enforcement agencies can greatly enhance public safety and potentially reduce noncompliance with the probationary process. Sharing this monitoring data with law enforcement agencies, who often have situational knowledge of the offenders, their familial associations and history of criminal activity, could have a game changing impact on the rate of recidivism and incarceration of juvenile offenders who would now be aware that their activities and associations upon release are now monitored by probation officials and law enforcement officers. Further, some access to data may allow for earlier interventions to the potential noncompliance that leads to recidivism. Because criminal and prohibited familial associations remain a top predictor of future criminal activity, monitoring information would provide law enforcement with an enhanced ability to provide-- prevent repeat offenses. Ultimately, LB76 would further establish law enforcement officers as a collaborative and knowledgeable resource in the probationary process, by providing the information necessary to help our most vulnerable offenders avoid the risk factors most often associated with recidivism. Thank you.

WAYNE: Any questions? Seeing none, thank you for being here. Next proponent.

JEANNE BRANDNER: Good afternoon, Chairperson Wayne and members of the Judiciary Committee. My name is Jeanne Brandner, J-e-a-n-n-e B-r-a-n-d-n-e-r. I'm employed by the Nebraska Supreme Court's Administrative Office of the Courts and Probation as the deputy administrator overseeing juvenile probation. I'm here before you today to provide testimony in support of LB76. The foundation of the bill asks a juvenile judge who orders a youth on electronic monitoring to state, in their order, whether or not the data from the electronic monitoring can immediately be made available to law enforcement without obtaining a warrant. This concept is supported because it does

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allow each judge to independently determine which individual records would be available and the individual youth is also informed through such order. The Administrative Office of the Courts and Probation has been working over an extended period of time with the Crime Commission to restore connection of probation data. During this time, court information that contains the conditions of probation has continued to be provided to the Crime Commission. This ongoing work will address programming in a manner that allows ease of access. We are dedicated to this project and will continue to prioritize the efforts. Additionally, the provision on page 8 that requires a court order to release the identified information is not necessary, as the Administrative Office of the Courts and Probation has already entered date-- entered a data-sharing agreement to provide said information to Nebraska's Crime Commission. Thank you and I'm happy to answer any questions.

WAYNE: Senator McKinney.

McKINNEY: Thank you. What is the point of electronic monitoring if we're just going to monitor people like the KGB? Why don't we just keep people in jail?

JEANNE BRANDNER: It's a great question, Senator McKinney. And electronic monitoring is used very differently with adults than it is with juveniles. We have a lot more juveniles on electronic monitoring. It is a tool that-- I think somebody asked earlier what, what can it be used for? It's probably used for more things than it was originally intended to. And sometimes, it can provide a false sense of security. As many testifiers have stated, if an individual cuts their monitor off, there's no knowledge of where they are. But primarily, it's used for high-end situations where it is important to know if an individual is staying within the court order of where they are or aren't supposed to be. It is also commonly used as a detention alternative. So if, maybe, the situation isn't egregious enough where the individual does need to be detained but could be out in the community under monitoring, then that would also be administered at that time.

McKINNEY: So egregious enough not to be detained, but we support the possibility of police just tracking you, too. I, I guess my my, my problem is that, OK, you're saying we'll release you on whatever, but you got to wear a ankle monitor. But hold on. Now, we need to release you on parole, probation or whatever with an ankle monitor, but we also need the police to be able to show up at your house at 5:00 in the morning and wake you up every day.

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JEANNE BRANDNER: Yeah. Senator McKinney. And as a point of clarification, this would not be active monitoring. The law enforcement would not have open access to monitor any youth at any time that's on a monitor, but it would be upon request. And then, again, if the court has ordered the release, we could say, yes, here's the record. Johnny was at whatever cross streets at whatever time, per your request, that that would be the information. It would be provided after the fact, more of a passive than an active monitoring, so they wouldn't have open live access to that--

McKINNEY: OK.

JEANNE BRANDNER: --as it sits, currently.

McKINNEY: Makes, makes me feel slightly better, but--

JEANNE BRANDNER: Yeah.

McKINNEY: --but thank you.

JEANNE BRANDNER: You're welcome.

WAYNE: This is short. Will the, will the individual, the juvenile and their mom or parent know that this is being shared with law enforcement?

JEANNE BRANDNER: Senator Wayne, if it was in the court order, I would suspect that that would be knowledge of both the parent and the individual. And again, why that's important to have that up front, so everybody is aware that that is a possibility that that would be accessible without a warrant. And when that court order is reviewed by probation with the youth and/or family, that information would certainly be reiterated, as well as any other legal parties that would be reviewing that information with the individual and/or family.

WAYNE: I have a lot more to say, but in the essence of time-- go ahead, Senator McKinney.

McKINNEY: So also, I'm just sitting here thinking. Hypothetical: I'm at my, my grandma's house. I'm a youth on a ankle monitor. And there's a shooting down the street that I have no involvement with, but I'm at my grandmother's. You guys provide this information. Does that open that juvenile up to investigation because of that?

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JEANNE BRADNER: I don't know that I could answer that, Senator McKinney, because I'm not sure what law enforcement parameters that they would be looking at, in terms of that. I think, again, historically, some of the requests that have come to us have been very blanket requests of can we have-- we want to know which individuals were in this particular location at a given time.

McKINNEY: See, that's my, that's my--

JEANNE BRANDNER: This process individualizes it.

McKINNEY: --but it's still my fundamental problem of they want to track people, but it's not even accurate. I could-- a, a kid could be innocent, super innocent, on an ankle monitor for truancy and a shooting happened down the street. Now he or she has to be investigated and intruded on because law enforcement asks for a blanket list of people in the area.

JEANNE BRANDNER: Right. The way I understand this bill as written, it would be individualized. So they would have to specifically say, according to the court order--

McKINNEY: But how do you--

JEANNE BRANDNER: --Senator McKinney's electronic monitoring access is open to our inspection and we are investigating a crime and have reason to believe that Senator McKinney, McKinney was in the area. We need the data from the electronic monitoring.

McKINNEY: How do they get the reason to believe if they don't know I'm there?

JEANNE BRANDNER: I, I would suspect, as testifier before said, whether it's tips, Crime Stoppers, whether it's information through, you know, investigation of other parties that they're talking to or whether it's--

McKINNEY: So, so--

JEANNE BRANDNER: --other you know, I don't, I don't know that.

McKINNEY: --so if I'm sitting in my grandmother's front yard or in a lawn chair and a shooting happens down the street and somebody says, oh, I saw Terrell sitting in the yard not doing any-- I'm still open

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for investigation. That's the problem. It-- it's not-- it's-- I'm sorry, but thank you.

JEANNE BRANDNER: Thank you.

WAYNE: So I-- where I'm confused is I don't know how we can order a search. Even if the state has that information, it's a different branch. How a judge could order a search without probable cause, that's where I'm struggling-- anyway, let's move on. Any other questions? Thank you for being here.

JEANNE BRANDNER: Thank you.

WAYNE: Next proponent. Next proponent. Now we'll move to opponents.

JENNIFER HOULDEN: Good afternoon. I'm Jennifer Houlden, J-e-n-n-i-f-e-r. I'm the chief deputy of the Juvenile Division of the Lancaster County Public Defender's Office. I'm here on behalf of Nebraska Criminal Defense Attorneys Association in opposition to LB76, in its totality. I'm here mostly to comment on the sections applying to juveniles. We're here in opposition because this bill interferes and subverts the goals of the juvenile code, which is rehabilitation of youth. It's also deeply concerning with regard to the Fourth Amendment, not just in the breadth of the information that it seeks, but most particularly, in the population that it applies to. I'm familiar with an Attorney General Opinion for LB1010. There was inadequate amount of time to get into this, but I would identify a fundamental flaw in the analysis of this letter, in that it assesses adult probation, Fourth Amendment rights, post conviction and applies them to minors without considering the Nebraska Juvenile Code and the application of it to juveniles adjudicated, not convicted. There's a lot there. I do have some information from Douglas County, as well, from my counterpart at the public defender there that I can refer to, because there are sort of different practices depending on jurisdiction. I would just respond to some of the questions and some of the answers. An individualized, particularized suspicion about a person comports with the Fourth Amendment. That's how you get a search warrant. This information is available to law enforcement when they have a reason to need it. The concern is the overbreadth and the use of a blanket request to just obtain all the data from everywhere on this population. This population are juveniles not charged with crimes, juveniles in juvenile court who may not even be charged with a law violation. It applies to truant youth. It applies to status offender youth. It applies to unadjudicated youth. It applies to youth

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that the court has not found to have committed any violation. And that is the overbreadth. The way in which it interferes with the goals of juvenile court is also problematic. Monitoring is a tool. Juvenile court wants to impact the juvenile's behavior. They want to get them what they need to change their patterns of decision making. Many probation officers has said to me, a ribbon tied around their leg would work as well as a monitor, because it's not about surveillance, it's not about investigation. It's about prompting change and when you're dealing with youth who do not have fully functioning executive function in their brains, they need to be reminded. I would also iterate that this redoubles the disparate impact on communities of color and poverty, impoverished communities, by further scooping up broad swaths of individuals. Thank you.

WAYNE: Thank you for your testimony. Any question for-- Senator Holdcroft.

HOLDCROFT: Thank you, Chairman Wayne. I just didn't catch what organization you're from.

JENNIFER HOULDEN: Nebraska Criminal Defense Attorneys Association.

HOLDCROFT: Thank you.

WAYNE: Any other questions? Senator Blood.

BLOOD: Thank you, Chair Wayne. I mean, the first thing I thought of when I read this bill was privacy concerns. And that's, that's one of the issues that I have and I'm clearly not a lawyer. Can you speak a little bit on-- especially since we're talking about juvenile-- juveniles-- like, do they give up the right to their privacy just because they're too truant?

JENNIFER HOULDEN: Certainly not. Probationers, persons convicted of serious felonies don't give up all of their privacy rights. And, and that is the core of my concern with regard to the law. I think that this is a broad evisceration of constitutional rights for youth. I would, I would love to be corrected by Senator Geist if I'm incorrect, but I don't believe that anything exists like this for convicted felons on parole, for people on probation. And those are adults who have had due process and have been convicted. And that is a very, very different thing than the Juvenile Code's goal, which is to rehabilitate. These are youth who, by design, are diverted away from the criminal justice system. And so, those privacy rights-- and

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that's, that's where I look at that Attorney General-- there's an Attorney General Opinion that says, basically, people on probation don't have the same expectation of privacy under the Fourth Amendment. So if you're on probation, you don't have the same Fourth Amendment rights. Those cases are analyzing adult probation, which results from convictions. They then find the principle that says juveniles don't have more Fourth Amendment rights than adults and put those together and go, OK, so if you're on probation, you have less expectation of privacy, a reduction in your Fourth Amendment rights. And there's not a case that says that juveniles have more Fourth Amendment, but that's juveniles with-- through the lens of that rule-- that holding is about conviction. It's not about juveniles adjudicated in the Nebraska Juvenile Code, which is a civil rehabilitative court. So the infringement of Fourth Amendment constitutional rights for youth who have not even been adjudicated, who may never be adjudicated, who may not even be alleged to have violated a criminal law and this is just a sweeping-- I cannot find any limitation that requires law enforcement inquiry, inquiry to be individualized. And I would love to be corrected. But that is the concern and that is the violation of the Fourth Amendment. If you have a suspect and you have a reason to believe, this information is available, always has been. It is, it will be, it always has been, because that is the operation of the Fourth Amendment with relation to search warrants. You have to have a reason to go invade someone's privacy and get this information. It appears to me that this bill allows for a blanket request, as described by Senator McKinney. We want every monitor active in this geographic area in this timeframe. And I, I don't think that that's overstated, to be concerned about and I think that's what needs to be reckoned with is-- I don't believe that that's tolerable, under the Fourth Amendment--

BLOOD: So.

JENNIFER HOULDEN: --as written.

BLOOD: No. I want to say it before I forget that I want to say it. So if a child is truant, we're worried about whether they're in school or not.

JENNIFER HOULDEN: Correct.

BLOOD: So not only would we know-- and to build on what Senator McKinney said, I'm-- not only would we know that they were in school

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or not in school, but we'd know where they were doing after hours, which really has nothing to do with why we'd be tracking them. Right?

JENNIFER HOULDEN: I would agree with that.

BLOOD: OK. I just wanted to make sure I'm not-- that's what I'm reading. And that's-- it-- I'm concerned about privacy. And sometimes, too, I hear-- and I don't mean this in a way that's meant to be derogatory in any fashion, but often I sit on committees where we hear parents come in and they're looking for ways to track their children. And, and I understand concerns of wanting to know where your child is. And-- but ultimately, I want to make sure that we're also respecting a Nebraskan's rights.

JENNIFER HOULDEN: And, and I think that's sort of always the concern when you're making justice-- you know, criminal justice or juvenile justice policy, based on individual cases. That's why we have to look at the broader scope, the entire population affected. And this is written to be any juvenile court order and that applies to youth who have not been found to have done anything.

BLOOD: Anything. Right. All right. Thank you.

WAYNE: Senator Holdcroft, followed by Senator DeBoer.

HOLDCROFT: Thank you, Chairman Wayne. But it is, in this case, I mean, it's a specific judge with a specific individual who's meeting-- and the judge is taking that into consideration when he issues this order that releases the information. Is that-- am I--

JENNIFER HOULDEN: Well, as written it'd be every judge every time. And it-- I guess the issue that I raise is that that is wholly prospective. It speculates into the future, into unknown circumstances at a time that we don't even know about.

HOLDCROFT: Yes. But it's the judge, though. The judge has that discretion, does he not, based on the individual case he just heard and the sentence that he's made. And part of that is just additional release of information.

JENNIFER HOULDEN: Well, I guess on a, on a couple of points, we're not talking about sentencing. We're talking about juveniles. In Lancaster County, we see electronic monitoring used mostly pre-adjudication, at the beginning of a case, not after they've been found to have done anything, only when they've been alleged. It's called an alternative

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to detention. And those hearings must be set within 48 judicial hours. They happen very quickly. And I, I, I do appreciate the effort that our juvenile judges make, but we are all limited by the information that we have at the time. And these decisions and these cases come in quickly. They're filed within four in two days, and they have the information that we have. So it's a little chaotic. So I guess I, I don't have your same confidence in each judge's ability to get this right, based on the reality that they've never seen this kid before, we have, maybe, a paragraph report about what's going on, we have mom crying in court. We don't know. You know, there's just really the reality of when that decision is made doesn't really allow the judge all the information that they would want. And I think-- there's no question that children who have not been adjudicated of anything are the most harmed by this. But when you think about the purpose of the juvenile code is to divert them from criminal justice, to treat them differently, that is the entire policy agenda of what we do in juvenile court. And then ,we take away their constitutional rights in a way that we don't take them away from felons? I think that that juxtaposition is, is troubling.

HOLDCROFT: Thank you.

WAYNE: Senator DeBoer.

DeBOER: Thank you. So if the, the juvenile court judge says, in this case, I think it will be rehabilitative for the juvenile to have this ankle monitor, with the possibility-- and says in their order, with the possibility of being monitored, would that get at your Fourth Amendment concerns that they've said, I've considered the rehabilitative effect. I think it will be rehabilitative for them to have this ankle monitor and that they have this-- the ability for law enforcement to be able to check in. Passive, not active.

JENNIFER HOULDEN: I think the harm is, is from the law enforcement request, when the law enforcement request is not particularized. The Fourth Amendment protects us from unreasonable search and seizure. And I-- and, and and I guess what I'm saying is, no. I don't, I don't think that a youth who is alleged to have violated the law or been truant from school or another status offense, I don't think a probable cause finding at that level is sufficient to remove their Fourth Amendment rights in the future, under circumstances that we don't know anything about, which may be a law enforcement blanket request for 4 hours in a geographical area. So that would not allay my Fourth Amendment requests. The relationship between the scope of the request

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that's possible in the bill, which I don't see any individual legislation requirement, and the population that it gets at, with are-- which are youth, who will not be convicted of anything and may not even have been found to be a child within the juvenile codes meaning, the comparison of those is where the Fourth Amendment problem is, in my opinion.

DeBOER: Would you feel more comfortable if this applied only to adjudicated individuals who had been adjudicated of a law violation?

JENNIFER HOULDEN: I would feel more comfortable if youth got the same protections as convicted felons and search warrants were required. I mean, that's-- we're treating children, in a way, with less rights than, than persons who have been convicted, who there is strong case law to say that they have a reduced expectation. If you're on parole and you're on a mon-- and on a monitor, you have a reduced expectation in privacy. That is a different individual and a different question of the Fourth Amendment than youth in a civil rehabilitative court. And so, I think that that is the core of the issue is that it applies to juveniles. And I think it's a questionable policy when it applies to juveniles only and any juvenile and all juveniles.

DeBOER: OK. Thank you. Are there other questions?

JENNIFER HOULDEN: Thank you.

DeBOER: Thank you very much. Next opponent.

ANAHI SALAZAR: Good afternoon, members of the Judiciary Committee. My name is Anahi Salazar, A-n-a-h-i S-a-l-a-z-a-r, and I am representing Voices for Children in Nebraska. Our juvenile justice system is distinct from the criminal-- from the adult criminal justice system, in that it is intended to rehabilitate and not, and not be punitive. A functioning juvenile justice system addresses kids' challenges and allows young people to move beyond them. In fact, there is bodies of research that allows-- that shows that young adults will seize problematic behavior after the age of 24, when their brains are fully developed. Voices for Children is opposed to LB76 because it under-emphasizes the role of confidentiality concerning personal information. This bill would prevent young people from moving beyond problematic adolescence and undermines important constitutional protection for kids. GPS information on a monitoring system for young people is currently available to law enforcement, with probable cause and a warrant. This bill would undercut the crucial protections of

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establishing probable cause and obtaining a warrant before receiving this information. In addition, the required copying of information in the Nebraska Criminal Justice Information System undercuts the goal of allowing young people to move beyond problematic youth behavior. Law enforcement is already entering information into the system on juvenile arrests and entering additional probation information does not serve the goal of rehabilitation for youth. We also know that our current system of record sealing has not always ensured that records are sealed with fidelity. The entering of information into an additional system creates another potential avenue for inadvertent release of information that should be protected. In short, LB76 contradicts this Legislature's efforts to provide more rehabilitative care for youth in the juvenile justice system. This bill, this bill's purpose, does not align with the reforms intended to reduce the number of incarcerated people. In the adult, in the adult criminal justice system. We urge the committee not to advance the bill and thank you for your consideration.

DeBOER: Thank you. Are there any questions? I don't see any. Thank you.

ANAHI SALAZAR: Thank you.

DeBOER: Next opponent. Is there anyone else who would like to testify in opposition? Is there anyone who would like to testify in the neutral capacity? For the record, as Senator Geist comes forward, I'll mention that there were five letters of support for this bill. Senator Geist.

GEIST: Thank you. And you see just the little tip of the iceberg of frustration of sometimes dealing in this arena. What this applies to and who-- I'm just going to turn your attention to page 11, paragraph 10. It says, any juvenile court order that places a juvenile on electronic monitoring shall also state whether the data from such electronic monitoring device shall be made available to law enforcement agency upon request by the agency. That speaks post trial, post seeing a judge. Right. This does not talk about pre-trial. We're talking about a juvenile has been in front of a judge. They have committed a crime. They're on an ankle monitor. This is not a blanket statement. The judge has-- or not a blanket request. The judge has the discretion to say, I believe this juvenile should be monitored. That is not going to be for truancy. That is not going to be for a parent wanting to track a kid. This is, this is a more serious-- if the judge deems serious reason to put this juvenile on monitoring. This also

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includes adults. This used to be the case. This was available to law enforcement until it was re-- it was looked at again by the courts. We sat with the courts. This-- we worked this out all last session. This was approved by the court. You heard from the Supreme Court. This was approved by the Chief. We worked with all the stakeholders to bring this together so everyone agreed. The reason that it is constitutional, especially in the juvenile case, I'll let someone smarter than me address the adult case, but the reason it's constitutional is because the judge, the court, is saying to law enforcement, you can have this information. They're giving that over on the front end and agreeing to it. So in light of that, I'm happy to take any questions. I'll answer to the degree that I can. I can't answer the constitutionality of it for adults because the-- I am not an attorney and I'm not even a constitutionalist, though I sometimes try to be. But anyways, I do trust the rigid negotiations that we went through. And I know that this was approved by the Chief last year. So with that, I will take any questions.

DeBOER: Thank you. Are the questions for Senator Geist? Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. Thank you, Senator Geist. Did you, did you have conversations with defense counsels or public defenders about this?

GEIST: I did not, personally. I, I worked this-- well, last year this was an amendment to a bill. And so now, the amendment last year is this year's bill. And the former chair of the committee worked this with the stakeholders last year.

McKINNEY: Because I, because I asked that because a lot of times, when we have bills and we're asked and we say we talked to all concerned parties. And if I brought-- and, and it's fair-- no, no, what I'm saying--

GEIST: Obviously, I think there's somebody who, who definitely disagrees, but.

McKINNEY: But I was just, I was just curious about that, whether or not defense counsel or public defenders had any input on this bill. And my, my biggest concern is that, one, I don't fully trust that law enforcement won't overstep or be unreasonable, because I've heard of many situations where, yes, they have the authority to be able to search its people, but it is very inhumane and unreasonable. And

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that's my issue. And I just want to protect and, and I know we talk about, you know, holding people accountable, looking out for victims and those type of things. But although a person is tried or found guilty or goes in front of a judge, they, they are still humans--

GEIST: Sure.

McKINNEY: --and they, and they deserve rights as well. And we can't strip those right away just because we look at that person or because that person made a bad mistake or a mistake.

GEIST: I don't disagree with that. However, really, here, the alternative could be that the youth could be detained versus the youth is on an ankle monitor. And so, it is--

McKINNEY: And that's my-- I guess that's my question in my head, is that we're saying that we want youth not to be as detained. Put them on a monitor. But then it's saying, oh, but they also need to be tracked by police. I'm just wondering, if we need to do all of that, why are we letting them out?

GEIST: There's a lot I, I would say that that would be one of those things that the judge would have discretion over of whether this would be someone that they would let out. The other, it could simply be a population problem. I mean, what if there's not room to hold them? I don't know. That-- I'm not a judge. I'm not.

McKINNEY: Because I guess--

GEIST: Also, understand this is not every kid. This is not even most. This is some.

McKINNEY: I know. But I also-- the population problem question. So, like, say, for instance, a juvenile is in Douglas County. If there's a population problem and we need to get people on monitors because we don't have space, I don't understand why in Douglas County, they just built a facility that cannot hold the current population in DCYC.

GEIST: Well, I've heard the question. I, I-- a Lancaster County person, so.

McKINNEY: But they sold it as like, more space for judges and the courts. If population is an issue, why do you build a-- and it's not for you-- how do you build a facility--

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GEIST: Yeah, because I can't answer that.

McKINNEY: --that can't house the population you have?

GEIST: Yeah.

McKINNEY: But thank you.

GEIST: I understand. Yeah.

DeBOER: Any further questions? That will end our hearing on LB76 and bring us to LB479 and our own Senator Wayne.

DeKAY: Are they combined?

DeBOER: Are they combined? No.

WAYNE: My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e. and I represent Legislative District 13. I'm here to introduce LB479. The reason I was just giggling is I asked legal counsel, I said, wow, this is a long opening. He said, it's, it's 72 pages. What did you expect? And I was-- OK. While it is 72 pages and 73 sections long, it's actually much less complicated than that. First, the bill does two things. The bill moves the Office of Probation Administration from the judicial branch to the executive branch. The probation administrator would be appointed by the Governor instead of the Supreme Court. Second, it would turn the Division of Parole Supervision into an independent agency. The director would be appointed by the Governor instead of the Board of Parole. There is nothing about this bill that would prevent either agency or people that work there from continuing to do the good work that they do now. But the way that the org-- that the Legislature organizes these agencies and places them within the state government, to cause some, some significant issues. First is the issue of efficiency. It does not make sense to have multiple state agencies do the same thing. Probation, parole and post-supervised release are in all community supervision-- are all community supervision. Duplicating these services across the state and establishing two offices and two supervisors and two sets of officers and two groups of service providers does not make sense. In many ways, these agencies compete against each other for staff and providers. The Legislature is appropriating money for signing bonuses and increased provider rates to attract, to attract people to choose to work from one agency to, to another. We are competing against ourselves. This bill does not fully merge probation and parole, but turning both of them to the executive branch administered by-- operated by the administrators appointed by

the Governor will allow for a little slight more efficiency. Article II, Section 1(2) of the Nebraska Constitution explicitly authorizes the Legislature to decide whether the executive branch or the judicial branch will undertake the supervision of individuals sentenced to probation. The Legislature's decision to place probation in the judiciary branch, branch has some consequences. First, the judiciary, judiciary branch does not operate facilities or provide direct services and is totally reliant on the private service providers. As we heard in hearings from Senator Geist's safe and secure treatment facility, LB473, and Senator McKinney's family resource centers, LB33, sometimes, relying on private providers leaves some gaps, some critical gaps. Unfortunately, these gaps often occur in tough situations where people need services the most. The judicial, judicial branch decision to pay for services with vouchers or a fee-for-service basis complicates the problem, because it is more difficult to provide new services. As we see in western Nebraska, right now, when it comes to juvenile services or even adult mental health services, somebody would have to have all that money upfront. And, and if you know anything about building a business, you're banking on one day, the government will, maybe, sign a contract and that's hard to get financing. So what has happened in western Nebraska is there's a huge gap for mental health services and for juvenile services. You heard in both of those testimonies that if a juvenile is detained in western Nebraska, sometimes they have to drive them all the way to Sarpy County, which is a 10-12 hour drive, depending on where you're at and going back and forth. And then if they have court, they have to make that same trip. And part of that is the fee-for-service basis. The second, there's, there's this argument that I continue to hear from defense counsels and quite honestly, prosecutors, now that I think about it, that despite the court's own rule, 5-302.9(A)(3), judges do receive factual information that are not a part of the record when they talk to probation officers. Now, some view that as a strength, but I will tell you that many officers of the court, probation-- and I mean, not probation, but prosecutors and defense attorneys want to be a part of those conversations. If, if one of their clients or a potential victim or anybody has concerns, they should be in the room having those conversations. It probably shouldn't be just the judge and the probation officer. And the second part is it's, it's-- it might be easier from a policy standpoint to make changes. Now, I will be completely transparent with this committee. It's, it's hard to have accountability on probation and parole services when they're housed all over the place and we don't know how to, really, keep them accountable. And so, by maybe establishing under the executive branch,

it may happen. Now, I'm not sure if this bill will move this year. Most likely it won't. And part of the reason why I say most likely it won't is I'm not a big believer in interim studies. I just-- interim studies don't work for me. People show up who-- you invite people and you don't really get to hear from people. And then, afterwards, there might be a report that's put on a shelf. What I found, in my six years, is the only way to have a real conversation and get feedback from the public is to introduce a bill and then people come running. They either hate the bill or they love the bill and then you kind of get some real testimony. So the purpose of this bill for this year is to listen to this, keep pressure on both parole and, and the judicial system to figure out where the gaps are and how to solve them. And if we have to, then maybe next year we'll have to move them or maybe, depending on how crazy this session goes this year, but the purpose is not to move this bill this year. It's to start a real conversation about the gaps and the problems that we're having in both parole-- super-- supervised parole and probation. And I'm talking about the post-supervised release after their, their, their sentence. So what happens is, for those who don't know, some of our felony charges require 9-18 months of post-supervised release. I passed a bill years ago because we used to have them on a Class IV felony, but we would essentially say that you couldn't have probation because you weren't deemed fit for probation, but we'll give you time served so you're on post-supervised release, which is the same thing as probation, in my opinion, from a practical perspective. So we got rid of that. But what happens is if you're sentenced and you do 5 years, 3 years, 10 years, after you get out, you jam out, you're on post-supervised release for an additional 9-18 months, whatever that is. So all of that's, right now, housed, kind of, under, under the judicial branch. So I, I don't know. I'm, I'm-- I was on this committee 2 years ago, but this is kind of fostered up, particularly in Douglas County, where there were some juveniles and as you hear, earlier, some adults on probation and, and it may have been some gaps. So I introduced this bill. I appreciate Senator Geist's staff for helping out putting this together and Senator Geist. But it's really a conversation. So I'm saying all that to say I know it's 4:30, but I encourage you all to ask questions. There is no dumb questions of testifiers because we do need to flesh out what we need to do to help out the situation.

DeBOER: OK. Are there questions? Let's start with Senator Geist.

GEIST: I have a quick one. Could you talk to us a little bit about the conditions of post-release supervision and kind of what that general--

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I know it might be different given different individuals, but generally, what does that look like?

WAYNE: So for me, generally, the practice that I've had, it's, it's just like probation. They check in with somebody. Some of--

GEIST: Is that daily or weekly or--

WAYNE: --depends on the probation officer and it depends on or-- and their caseload.

GEIST: OK.

WAYNE: Some of them are really, really good. Some of them are, are, are-- need some-- needs improvement. Isn't that what we say about schools, needs improvement? But part of it, what I've, what I've heard from my conversations, since this bill, with pro, with pro-- probation is there's-- they do have a request in for appropriations for more probation officers. I think you had a bill on that too--

GEIST: I do. Um-hum.

WAYNE: --about the system. So I think that's part of the issue. Since we changed, in LB605, with this post-supervised release, there are a lot of people jamming out and then, on post-supervised release and that scale-up, primarily because how we work here is we typically and you'll hear tomorrow, the branches kind of come together to make sure budgets aren't vetoed. And we may not be always looking out for what's best for the public. And I don't mean it in a negative way, but if we're doing a 1-2 percent increases in our budget, but we have 1,000 prisoners jamming out that are on post-supervised release, the math doesn't work.

GEIST: So.

WAYNE: The math just doesn't work.

GEIST: One more follow up, is the other thing I think that links really closely with that is what is an average caseload of, of an officer who has people that they're--

WAYNE: There--

GEIST: --supervising.

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WAYNE: --I thought there's going to be somebody here, but I've heard anywhere from 40 to 60 cases. So again, they are asking for, I think, 30-40 additional probation officers. But there, there is a, a significant gap right now. We've, we've heard multiple victims or victims' parents come in and testify, multiple times, about people who were on-- and some of it's pretrial release, some of it's parole, some of it's-- to me, the mechanism is kind of-- from a legal standpoint, it doesn't, it doesn't matter which one they're on and who is in charge, but, but the overall idea is still the same. And there are some gaps. And so, again, I hope this is more of an informative conversation than anything else.

GEIST: OK.

DeBOER: Senator Blood, then Senator DeKay.

BLOOD: Thank you. I'm glad that this is conversation. And I'm one of those persons who both loves and hates this bill. And I'm going to tell you my question, because I know that this is a work in progress. Why do we want to give anything to the executive branch after they've hosed up our prison system, they hosed up our parole board. They-- NDEE is also under the executive branch. They hosed up Mead, Nebraska. They gave money in the Department of Labor, which it falls under the executive branch, to the Russian mafia and Nigerian crime rings. Why, why do we feel something so important should go under the executive branch for them to hose up?

WAYNE: Because I can't give it to the Legislature. No. I mean, so that's-- so part of the issue is, is I'm not saying it's the best-- I mean, I know this bill is moving it there. There is something, something to be said about the, the political winds that as they change, maybe, if you put it underneath the executive branch, those will also change. So tough on crime versus smart on crime versus somebody saying their-- they don't care about crime. So I think there's some argument to that. But I do know there's been a lot of bills in here to, to improve probation underneath the current system. And those bills don't ever get to go anywhere either. So maybe the, the big hammer of moving it to the executive branch, we can have a, a real conversation about the, the gaps.

BLOOD: I wish there was some other alternative and I hope we can talk about it, because I like everything else in the bill but that.

WAYNE: Understood.

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DeBOER: Senator DeKay was next and then Senator Holdcroft.

DeKAY: You was talking about adding more probation officers. What it-- if a person wants to apply, what's the training and what's the education process?

WAYNE: I will defer to somebody from probation who is behind us.

DeKAY: Good. I mean--

WAYNE: I know what I don't know. I mean, I know when to say I don't know something and I don't know that one.

DeBOER: Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. I'd just like to get your opinion on this fiscal note here. What-- do I read it right? \$46 million and--

WAYNE: I thought I'd be higher personally, but--

HOLDCROFT: --but-- I mean, what's your thoughts on is that realistic and, and what's driving that?

WAYNE: --so that's what's a little confusing to me, because we're moving, we're moving a program from one branch to the other branch, so the costs should be the same.

HOLDCROFT: Negative. Right.

WAYNE: Right. And if it's not, then maybe that's the gaps we're talking about. Maybe somebody's saying we're, we're missing X, Y, and Z, but when I read the fiscal note, I didn't see them saying if it comes to the executive branch, we're going to add these programs.

HOLDCROFT: Yeah.

WAYNE: So the fiscal note to me should be zero, because we're just moving it over.

HOLDCROFT: OK. Thank you.

DeBOER: Thank you, Senator Holdcroft. Anyone else?

McKINNEY: Yeah. [LAUGHTER]. Oh, I was, I was just going to ask what about placing it under the parole board?

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WAYNE: So my next bill places, places post-supervised-- so-- post-supervision underneath parole. Again, I'm open. I just-- I brought the other bill multiple times, so I know a little bit about the post-supervised release and parole. I'm just trying to-- yeah. I'm OK with doing that. I mean, to me-- I'll talk about it next bill, but yeah.

DeBOER: Thank you, Senator McKinney. I feel like I need to ask you a question or be left out, but I'm not going to. So any other questions? Speak now. All right. Senator Wayne, that's it, looks like. We'll go to your first-- well, we'll go to-- I understand there's a proponent named Tiffany Pelley who is going to have to leave, so we'll go to her first. Welcome.

TIFFANY PELLEY: Thank you. My name is Tiffany Pelley, P-e-l-l-e-y, and I'm so thankful for this bill. I know everybody has their own opinions on the whole process of the system. My daughter's been involved in the juvenile court for three years. There is no accountability for probation. My daughter almost was placed into a foster home, by probation, that had a felon who just was released, a year prior, from federal prison for drugs and guns. When I brought that to probation's attention, they pretty much mocked me, laughed at me, thought I was joking, told me are you serious? You really think-- I had to tell them, until you guys get back on track, I will sit outside the Sarpy County Juvenile Justice Center and stop whoever tries to take my kid out of there. So they decided to wait until Monday. The supervisor of probation was going to run her own background check. And it turns out I was right. It was, oops, sorry. On to the next. The biggest thing for me with probation is in October, there were-- my daughter was in a foster home again. She's a runner. There was a court order from the judge that was signed five days prior, that if she tried to run, she was to be detained. She came home, spent the night. And she's on an ankle monitor and she tried to run from my house. I chased her, I held her till the police got there. And they called probation. And probation said, take her back to the foster mom's. Didn't care about the court order. Nothing. So she went back. She ran. She was gone seven days. In them seven days, my daughter was sold for meth, my daughter was raped, my daughter was drugged. And she ultimately ended up in Children's Hospital for eight days and she almost didn't make it. And again, no accountability for probation. I understand everybody's on different sides of this, but something's got to change, because I'm not the only mom. It's not just my kid. I shouldn't be in a position where I have to just lash out on anybody on social media to

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figure out where I have to go for help, because it's a problem. And that's all I got.

DeBOER: Thank you for your testimony. Is there anybody-- questions? Are there any questions? Senator McKinney.

TIFFANY PELLEY: Be nice.

McKINNEY: No, I will. No, I was just going to ask you-- and I know you said some stuff in your statement. What are some things, from your perspective as a parent, that could be some better accountability measures for probation?

TIFFANY PELLEY: The whole system needs to change. I have a runner. My daughter was a runner, so she was placed in every facility that Nebraska has, but they're all unlocked. You know, so she burned through her options. They do not detain them. They put her on a monitor, she takes it off. But I, I don't know who holds probation accountable, because I reported it to DHHS. I've reported it to the court. I had the county attorney tell me, well, if you don't like where Probation places your kid, how about I just throw your case out and you deal with her? And it wasn't just me he said it in front of. It's all documented. So I, I don't know the answers to that. I wish I had them, but it just-- it shouldn't happen. It's a very helpless feeling to go through.

McKINNEY: I won't ask that question.

TIFFANY PELLEY: Go ahead. I've got thick skin.

McKINNEY: No, I, I was going to ask-- and I don't want to try to get too personal.

TIFFANY PELLEY: You're OK.

McKINNEY: But I was going to ask if, if it was some things that your daughter might, might have said that-- why she think probation isn't working, if, if possible.

TIFFANY PELLEY: Why what?

McKINNEY: Why it, it-- I was wondering if your daughter has ever said some things to you about why or why not probation isn't working.

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TIFFANY PELLEY: I don't think probation really ever did anything other than warehouse her from placement to placement. They never gave her goals. They never had any kind of-- I mean, there was, there was no guidelines of what she-- no, no what do you call it, a curfew? Nothing. So I don't really-- I don't-- she was just-- my daughter was bullied in school. She became defiant. She started running, because that's how she dealt with it. And then, she was moved from placement to placement. She just kept running.

McKINNEY: OK. Thank you.

TIFFANY PELLEY: Yep.

DeBOER: Thank you. Senator Geist.

GEIST: Thank you for your testimony. If there was a good first step, like one thing that if you look back from the beginning of this whole time, one good first step at the beginning--

TIFFANY PELLEY: In the beginning?

GEIST: --what would that be?

TIFFANY PELLEY: Something longer term than Immanuel, but set up like Immanuel, where they can get that therapeutic help that they need but they can't run. You know, Immanuel's 5 days and they only take them if they're suicidal, not if they have depression, you know, not if they're defiant or have defiant, you know, disorders, you know. So you have to keep them safe somewhere.

GEIST: So in your opinion, when your daughter was running, how do you look at detainment?

TIFFANY PELLEY: Honestly, like just somewhere secure that she couldn't just walk out the door and bye. You know. When I was younger, we had NOVA and it was semi-secure. We had Uta Halee. It was in the middle of nowhere. But everything's changed. And there, there aren't them programs. There's, there's nowhere. I would-- I mean, a fence would have stopped her from at least climbing it or at least giving somebody the chance to catch her before she got over it. But we don't have that.

GEIST: Thank you.

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DeBOER: Thank you, Senator Geist. Other questions? Thank you for being here.

TIFFANY PELLEY: Thank you.

DeBOER: We'll take our next proponent testifier.

AARON HANSON: Ladies and gentlemen of the Judiciary Committee, my name is Aaron Hanson, A-a-r-o-n H-a-n-s-o-n. I am the Sheriff of Douglas County, Nebraska. I support LB479, but I think it's important to preface that support by saying, you know, this is not a reflection on the judicial branch and the people in it. We've got phenomenal judges. They run the gamut. They have different styles. They have different outlooks. When it comes to our individuals in adult and juvenile probation, we've got phenomenal staff. They're committed. They're passionate. In my view, it comes down to have we created an untenable situation for the judicial branch, that they not only have to do that yeoman's work of being the court, being the judicial system, being the judges, but then also, essentially, being a quasi-executive branch by having probation and juvenile probation contained within the same branch? And I'll give you a, I'll give you just a recent example. You heard, you heard a heartbreaking story here from the speaker before me, but I just had another one within the last week: court-ordered placement of a young female at a, at a facility, a group home, in Douglas County. The young girl was on juvenile probation, frequent runaway history. And a court ordered her to this group home, court-ordered. She punched the director in the face, stole another employee's phone and ran into the woods. My deputies had to go into the woods to find her. They called-- were called back multiple times. The, the probation officer said, well, we're not going to send her to DCYC. We're just going to-- we're going to send her home. That doesn't make sense. The same part of the judicial branch, the judge that said that order, this young person should be in a group home; another part of the judicial branch is saying, well, we're just going to send this young girl home. She's probably on the run right now, based on her history. I think we need a little bit more checks and balances in our probation system, our juvenile probation system. Definitely, we need to have a, a, a level of subordinate service to the courts. But I do think it's a, it's a great issue. It's a worthwhile topic to discuss, because the ultimate goal is better outcomes: for these young people and these families. I'll take any questions you may have.

DeBOER: Any questions for this testifier? Senator Blood.

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BLOOD: Thank you, Vice Chair DeBoer. It's nice to see you back again. I see all the time now on this committee.

AARON HANSON: Thank you.

BLOOD: So you heard me earlier. Do you take any issue if it wasn't under the executive branch? We're still able to do all these awesome things, but found a different branch of government that we could put it under, would you be OK with that?

AARON HANSON: Well, here's what I'll tell you. I think that if, if you had a one-stop-shop, given the commonalities of, of parole, probation, juvenile probation, they're all different. They all have their own--

BLOOD: Right.

AARON HANSON: --their own individual issues. But when you look at a lot of the, the issues that intertwine each of them, there's also a lot of similarities. So if you did have more commonalities in the rehabilitation options, the service providers, the transitional housing options, safe housing options, you know, there might be some cost savings in that, as well. But I do think there definitely needs to be, with, with-- regardless of who administers probation, there needs to be some good checks and balances. There needs to be some sunshine, regardless of what branch administers it.

BLOOD: OK. So I hear you saying that as long as we were able to pull this off, it doesn't really matter what branch it falls under, as long as it goes well.

AARON HANSON: Well, it is an exec-- I think, in my opinion and I think if you look around the country, it's a mixed bag. Because in some cases it's judicial branch, in some cases it's executive branch, in some cases it's a mix. In, in my opinion, I, I think it would probably be best served as an executive branch function, but I separate myself from the politics of it. I look at it--

BLOOD: Right.

AARON HANSON: --just by, by general government branches and, and the services.

BLOOD: I, I look at track record, so that's my concern.

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AARON HANSON: As long as we're funding it appropriately, I think that's the most important thing.

BLOOD: I agree.

AARON HANSON: What are we doing to support probation, regardless of the branch that it's in? What are we doing to support the individuals that are navigating probation, whether it be the clientele or the, or the probation staff?

BLOOD: I concur. Thank you.

DeBOER: Thank you, Senator Blood. Other questions for this testifier? Senator Geist.

GEIST: I just want to talk a little bit about having it under the judicial branch versus the court. So I don't know if the people that you know are like the people that I know, but when they go to vote and there's a list of judges or-- that they get to confirm or deny and as an elected official, about-- for me, about 90 percent of the questions I get about-- from people, about who to vote for or not vote for, to confirm or not confirm, are usually judges. At no fault of their own, but they're not, they're not big headline people, correct?

AARON HANSON: The judges?

GEIST: Yes.

AARON HANSON: They can be. It's case by case. But, but you're off-- I, I think your, your point is well made. Typically, there's not a lot of-- it doesn't get the notoriety that other, other positions get, for sure.

GEIST: But then, undoubtedly, everyone knows who the head of the executive branch is.

AARON HANSON: Correct.

GEIST: And to, to the degree that, that it is politically expedient to make sure that things run well, you can-- no matter who is head of that. And that things are accountable and that you-- your future may rise or fall on how well your government runs under your supervision, for lack of a better word. It's kind of a pun in this situation. Do you-- is, is-- are you seeing why it might be a good reason to be under the executive branch versus just the-- another branch that, to

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many people, is very mysterious. And that is not an indictment of that branch. It's just the difference between a single person versus a, a whole branch of individuals.

AARON HANSON: I think the accountability piece is key. That's really what this comes down to. Whatever systems we have and especially if they're this, if they're this crucial, is there a, a sufficient means of accountability? I can tell you that I've talked to parents from north Omaha, west Omaha, affluent, poverty stricken and they're frustrated. And I've even tried to, to take some parents to the, the various oversight offices like the, the, the state agencies that, that look at juvenile oversight. And, and they've-- it's my understanding, I said, well, there's nothing we can do.

GEIST: Um-hum.

AARON HANSON: And so I think the accountability piece is key, and it's an important part of it.

GEIST: I've talked to those individuals, too, and, and have experienced frustration from them, as well. And so, thank you for your testimony.

DeBOER: Thank you, Senator Geist. Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. Thank you, Sheriff Hanson. Do you think too many people have their hands in a pot?

AARON HANSON: I think first, we have to figure out which hands are in the pot. And I don't know if we really know. Because, you know, a lot of the decisions happen behind closed doors. And, and again, I think that goes back to the accountability piece.

McKINNEY: What about two, two ideas, just to throw out there. What if we put it under the Board of Parole and gave the Deputy Ombudsman for Corrections oversight?

AARON HANSON: Well, I, I believe and I could be wrong, but I believe that, that next door in Iowa, I think that probation and parole are more tightly co-mingled. I don't know if, I don't know if probation is under the, the board of parole. I doubt they are. I think they're under a board of-- maybe there's a board of corrections.

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McKINNEY: That was kind of going to be my follow-up: what if we placed the Parole Board, Probation and Parole Administration under one umbrella?

AARON HANSON: Yeah. I think, I think that would be an interesting area to research and to, and, and to look to, not only-- hopefully, can you, can you streamline a lot of processes, but you might find a lot of efficiencies both in, in, in better outcomes and, and cost-sharing.

McKINNEY: And my, my last one and I struggle with the, the concept of detainment because I-- not to say that, you know, I don't think there are kids-- because I work with kids too, that-- kids that just need a time out, sometimes. I just struggle with what does that look like, as far as like, is it like a jail setting? Is it like a hospital setting? Is it-- what, what type of setting that is, because it's-- research also shows that if you just detain kids and lock them up in a jail setting it's harmful and it, it hurts life outcomes. But I do understand there are juveniles that do need a time out to get things together, work some things out with family, maybe get them on the right track with like medication, school, all those type of things. It's like-- but it's how do you strike that balance?

AARON HANSON: Yeah. You know, for the, for the kids that are really high risk and, and that, that run a lot, for example, the, the young lady that I was talking about at this, this very well-known local group home in Douglas County. You know, I, I think you got to strike that balance. Some kids need to-- there are just some kids that need high-level detention. But I think we need to look at that middle ground area where they don't feel like they're locked up. Maybe they can even go outside, staff secure. But ultimately, there is some barrier that inhibits their ability to leave the property in general. And, and hopefully, that would be a facility that is really focused in on psychiatric care and therapy, not just, not just a place to kill the clock.

McKINNEY: OK.

AARON HANSON: Almost like a PRTF-type setting.

McKINNEY: What is-- so what is your view of the Boys Town Model?

AARON HANSON: I've heard nothing but good things about the Boys Town PRTF Model. One thing I, I really like about Boys Town and talking to people that have navigated it, you know, they, they can kind of be

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that one-stop-shop, where they, they do have the, the secure PRTF, psychiatric, psychiatric residential treatment facility, that kids can't run away from. And if they need to, they can transition kids to the more staff secure. It's not, it's not secure. So hopefully, maybe you can move them into that middle area, where you're kind of testing them, you're seeing if the psychiatric care worked. And if it didn't work, well, maybe we have a place we can move them back into the more secure. And then, if that, that moderate level security, security level facility at Boys Town works, then you can move them over into a, into a more freedom-based home on the campus. So I think, I think Boys Town does a lot of really good things. And I think we should be probably looking to emulate them on the state level, as much as we can.

McKINNEY: All right. Thank you.

DeBOER: Thank you, Senator McKinney. Other questions for this testifier? I don't see any. Thank you so much for being here.

AARON HANSON: Thank you.

DeBOER: Next testifier. Proponent. Welcome.

PATRICK DEMPSEY: This'll be my last time today. Good afternoon. My name's Patrick Dempsey, P-a-t-r-i-c-k, last name is D-e-m-p-s-e-y, and I'm here on behalf of the Omaha Police Officers Association. We appear today in support of LB479 and greatly appreciate the approach to addressing the needs of the state probation and parole system. A reorganization of responsibilities to include probation and parole under the executive branch is a sensible and welcome change that recognizes that oversights and authority of the process should be more in line with the needs of the state. This reorganization provides a real opportunity to magnify and address the quality of services required to help rehabilitate offenders within the criminal justice system. I agree with Douglas County Sheriff Aaron Hanson in his assessment that LB479 represents a heads-up approach to identifying risk and reducing the need for criminal incarceration. Attempts to reform must address both an offender's current behavior and the underlying issues or factors that can lead to future re-offending. As Omaha, as Omaha police officers, we are keenly aware of the societal and environmental factors that contribute to court discipline and repeat incarceration. We support strongly the idea that increased consultation with the courts by a specialized supervision agency and increase in nonprobation services would represent a meaningful

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opportunity to improve rehabilitation outcomes and avoid recidivism. In short, LB479 is part of a legislative leap forward to ensure that parole and probation play a meaningful role in the criminal justice process. Thank you and I'm open to any questions.

DeBOER: Are there any questions? I don't see any.

AARON HANSON: Yes.

DeBOER: Thank you so much for being here.

PATRICK DEMPSEY: [INAUDIBLE]. I'm running.

DeBOER: Next proponent. Is there anyone else who would like to testify in favor of this bill? OK. We'll move to opponents. Welcome.

DEB MINARDI: Good afternoon, Senators. And good evening, almost. My name is Deb Minardi, D-e-b M-i-n-a-r-d-i. I am the probation administrator for the Administrative Office of the Courts and Probation. And I'm here today to provide testimony in opposition of LB479. Last week in the State of the Judiciary, the Chief Justice spoke about a 100-year-old tradition of probation within the courts. This important fact is far more than just tradition, it's understanding the interconnection between probation and the court within the legal process, the efficiencies and the fiscal advantages. As the Chief Justice mentioned, probation works for judges. Probation officers conduct pre-sentence investigations that are ordered by the judge, for the judge. This investigation assists judges in making decisions, whether it be about sentencing or adjudication for adults and youth. In Nebraska Revised Statute 29-2262, Subsection seven outlines the authority, in essence, the judge as the owner of that investigation and the only one who can release that information. The courts and probation share technology. They exchange that investigation first, from probation officer to the judge and then, the judge to the legal parties. When a judge orders probation, it is the role of a probation officer to serve as an arm of the court and ensure oversight of that court order. They are working for the judge to assist that individual in successfully completing that probation. During that whole entire time, the court remains having primary jurisdiction. A judge oversees a problem-solving court. And Probation serves to coordinate the team of the problem-solving court and supervise those individuals within the committee. The leadership provided by the Supreme Court extends over years, as a matter of fact, decades, and provides continuity, clarity, discretion, vision and

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stability. Over the last 20 years, the Legislature has looked to the judicial branch on a number of occasions to assist. When it came to prison overcrowding, the judicial branch expanded problem-solving courts, implemented presumptive probation, as well as post-release supervision, both successfully and timely, as asked by the Legislature. When it came to, to juvenile justice, when youth were transferred from DHHS to Probation, Probation then had a reduction in state warrants, a reduction in recidivism, and a \$35 million return to the general fund in efficiencies. While I could provide lots of other examples of the interconnection between the court and probation, I will simply put it like this: separating the court and probation is like taking the legal counsel for the Judiciary and having the Chief Justice hire that individual and he work for that individual. With that, I'll be happy to answer any questions.

DeBOER: Senator McKinney.

McKINNEY: Thank you. And thank you for your testimony. So where's the confusion? Why do you think that many believe that probation isn't doing a good job?

DEB MINARDI: Well, I-- I'm going to tell you first and foremost, I'm biased. I'm 43 years with probation. So I have seen the good times and the bad times that probation has gone through. I can tell you in the last 20 years, we have never seen recidivism rates lower. We've never seen success rates higher. We've never seen our population more difficult, but even with a more difficult population, we continue to have very good outcomes. Are we perfect? Absolutely not. But by and large, because of the continuity and stability that probation has, we've been able to, we've been able to implement programs that have been very successful. And many of our individuals, 82 percent, are released successfully back into the community. That's a pretty high percentage. Our success rate in recidivism, 19 percent for adults, 22 percent for, for youth. I would compare that anywhere across the nation.

McKINNEY: What do you think can be done to address some of the issues parents are asking, saying my kid keeps running, getting into trouble, doesn't want to be in a home, but probation won't-- doesn't want to do anything about that.

DEB MINARDI: Well, there's a, there's a multitude of issues here. In relationship to the example that we talked about earlier, we are in desperate need of a secure PRTF. No disrespect to, to Sheriff Hanson,

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but Boys Town is not a secure PRTF. It is a PRTF, but it is not a secure. If an individual wanted to exit out of a door, there will be a door that they can exit. In the state of Nebraska, We do not have a secure PRTF. We do not have an entity that's comparable to LRC for youth that have really serious mental health or behavioral health problems in relationship to that.

McKINNEY: And I'll, I'll say it to you, too. My struggle with detaining youth is that there is real facts that show that detaining them in a prison-like setting or something like that can be harmful. So are there any examples across the country or even in-- well, across the country that we can look to to say this is a good example of.

DEB MINARDI: I--

McKINNEY: --doing, doing the things to try to improve that, that kid's life, but we're not harming them in the process.

DEB MINARDI: I think if you would look to-- for one of the things that we've done is over the past two years, we've been engaged in a national study with the Robert F. Kennedy Foundation, to look at our juvenile justice system overall and where probation can make its improvements. That having been said, you're not going to get any disagreement from probation that detention is harmful. That's why we do everything in our power to try and look for alternatives. And we utilize JDAI, in particular, as, as an option for alternatives for youth. Do some youth have to be detained? Yes. However, as you said, it's not good for youth and it should be used as a very last resort and not as a punishment.

McKINNEY: Thank you.

DeBOER: Thank you, Senator McKinney. Senator DeKay.

DeKAY: Thank you. I asked Senator Wayne earlier about this. What requirements and what training and what's the timeline does it take to-- if we're short on probation officers, what's the process to get up to speed with the probation officers you would need?

DEB MINARDI: First and foremost, I think you asked the question earlier about what does a caseload look like. So I want to be really clear about what a caseload look likes [SIC]. It depends upon the risk level of the individual, so the higher the risk, the smaller the caseload. So they have the ability to have that individual individualized attention. On a juvenile side, a caseload will be 1-15

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for a very high-risk youth. On an adult side, it could be as many as 1-25. And then, it goes down proportionately, depending upon the level of risk of that individual continuing with their behavior. Probation officers must have a minimum, a minimum of a college degree. If they are a high-risk officer, they also must come in with a minimum of two years' experience. We offer a nine-week education program, in which-- that's the academy that officers must go through before they are considered to be in a position where they can fully take on a caseload.

DeKAY: So is that a program when they enter into college to get their degree? Is that a program they enter into and or do they get their degree and go into your 9-week program?

DEB MINARDI: Our, our program, it-- that's what we offer here, once they come with us. They must have the college degree before even coming to us. And typically, the college degree is somewhere in the social science, behavioral science or criminal justice kind of backgrounds.

DeKAY: OK. Thank you.

DeBOER: Thank you. And now, to Senator Geist.

GEIST: Just briefly, you were talking about a secure PRTF. And I know that our state, because that's one of the bills that I kind of brought, sort of quasi, but that does not have to be prison-like, does it?

DEB MINARDI: Oh, absolutely not. I'm not-- but the-- I, I think the distinction that I was trying to make is that we wonder why kids go into placement and how can they run.

GEIST: Um-hum. Right. Right.

DEB MINARDI: We have to acknowledge that placement is not intended to be a secure--

GEIST: Sure.

DEB MINARDI: --facility, where they are locked in and can't get out.

GEIST: So when we send kids out of state, we're-- are we sending them to a secure PRTF?

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DEB MINARDI: No.

GEIST: OK. Is there any place that has a secure PRTF that we would like to emulate?

DEB MINARDI: Well, I, I, I think that that's part of the discussion that's happening with Health and Human Services, in, in relationship to really, kind of, seeing that need from a behavioral health perspective. So I can't really speak to what they're looking at.

GEIST: OK. OK. All right. Thank you.

DeBOER: Thank you, Senator. Geist. Back to Senator McKinney.

McKINNEY: Thank you. I have like a loaded-- I don't think it's loaded, it's just three questions in one. What's the demographics of the juveniles on probation? Was the demographics of the 18 percent that do "recidivize" and what's the demographic of the judges, based-- race, based on color, race?

DEB MINARDI: Do we have a disproportionate number of youth on probation? Yes, we do, a higher number of-- youth of black and brown than we would expect to, in relationship to our population. Our highest population on probation is white, but we do have a disproportionate youth, the same way with our adults. There's no question about that. In-- and I would say, in-- from just what I know, there are not very many black and brown judges currently on the bench.

McKINNEY: So how, in, in your opinion, how do we address the disproportionality and also the lack of diversity of our judges?

DEB MINARDI: Well, I don't know that I can speak to that, short of saying we need to be providing additional opportunities in our law schools, in terms of accessing our law schools and, and what I would like to say is we even have trouble these days getting lawyers to apply to be judges. And I think that's part of an issue, too.

McKINNEY: All right. Thank you.

DeBOER: Senator Geist.

GEIST: What about probation officers? What is the diversity like, as far as probation officers go?

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DEB MINARDI: We've made a concerted effort over the last two years in particular, especially around our HR, in terms of we're offering now paid internships, which we've never done before. We have more diversity than we've ever had before. Are we where we need to be? No. Is that a priority for us? Absolutely.

GEIST: And then, just a follow-up, is, is staffing. I know that, that, that's a problem all over the state in every area, but how, how is it going for probation and, and having enough officers? And I would say especially high-risk, those that, that supervise high-risk.

DEB MINARDI: We-- we're back to pre-pandemic stages. So I would say that we're probably the best we've been in a very long period of time. But that also goes to the, the obvious, having to do with where do we lose our officers? We lose our officers more than anything to federal probation. Sometimes we lose our officers, unfortunately, to just the private, private entities in relationship to that. So we-- our, our turnover has stabilized, our staff has stabilized, and we're back to pre-COVID. Doesn't mean we still don't have openings because we do and we still have problems because we don't have enough officers just, in general, to deal with the caseloads.

GEIST: OK. Thank you.

DeBOER: Thank you, Senator Geist. Other questions? I have one for you. The caseload that you talked about based on risk level, are those caseloads statutory? And are they statutory by risk level or-- do you know or-- I mean, obviously, you know, are the caseloads statutory?

DEB MINARDI: They are not statutory. We use risk assessment instruments and that's what drives our caseload in relationship to that. We recently conducted, again, a 3-year workload study that helped us determine what the appropriate caseloads would look like. And that's part of the reason that we're determining that we, in fact, actually, need some more officers in order to deal with that. We were previously going off of studies that were close to 30-years-old that said, this is what the caseload should look like. And now, we have more Nebraska data to tell us what would be more appropriate in relationship to that. Are we far off? Like I said, the studies from 20 years ago said a high-risk caseload should be somewhere between 30 and 50. And now, what our study is saying is that we need to be more like in the 25 area.

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DeBOER: OK. And those, those are set by court rule this-- the caseload or you set them or how are those caseloads, how are those caseloads set?

DEB MINARDI: They're set by research. Yes. And essentially by policy.

DeBOER: But then you, but then you-- and then, and then you set a policy. OK. It's not for-- this, this is for a different bill. So thank you. Are there other questions? Thank you.

DEB MINARDI: Thanks.

DeBOER: Next opponent.

TIM HRUZA: Good evening, Vice Chair DeBoer and members of the Judiciary Committee. My name is Tim Hruza, last name is spelled H-r-u-z-a, appearing today in opposition to LB479, on behalf of the Nebraska State Bar Association. Ms. Minardi kind of laid out, I think, a lot of what we have discussed as a bar, in terms of the opposition to this bill. But I do want to highlight one key area in my-- from my comments and then I'm happy to answer any questions you might have, though I am not an expert in how all of this works, to be candid with you. I think a lot of our conversation at the Bar Association and, and from the lawyers' and judges' perspectives who are members, has come from what Ms. Minardi highlighted in the beginning of her testimony, which is the functionality of the probation system and the role it plays, in terms of how it works with a judge supervising a case. So I think there's some technical respects with a, a defendant or an offender, a juvenile offender who is placed on probation as part of their adjudication or their sentencing. When they're placed on probation, they are under the supervision-- they're placed under the supervision of the court. Right. That gives the judges the flexibility then, to handle that case or to handle that individual as they serve the, I guess, the sentence of probation, right, that they're, they're placed under. There's a distinction there between parole, where you're being released from a correctional facility, you're still under the executive branch. A parole officer is supervising you after release from a correctional facility, where you've been transferred, I guess, your care and custody in the criminal system to the executive, versus the supervision of the court. Ms. Minardi also mentioned the-- and, and I've heard this from both judges and lawyers, that there's a lot of value, I think, in the presentence investigation piece and the role that probation officers play in developing that, being able to have a conversation and to prepare that report from an objective standpoint,

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without the idea of coming from a prosecutorial standpoint on the executive side or, or some other standpoint, but being able to work with a judge to give an evaluation of the offender and what recommendations they might make for conditions of, of probation that they might place upon them. And I think that's critical that you have some free flow between a judge and the probation officer. The final thing that I would say, at least with respect to the juvenile situation-- and I do not know the history super well, but prior to 2012, the juvenile probation was placed within-- housed within DHHS. I started practicing juvenile law after that transition happened, so I don't know what it was like before, but I do know that there are, at least from a technical concern and I mentioned, sort of, the placement of supervision, but I do know that that did change very dramatically when probation took that over, at least from my practice standpoint. The ability to handle juveniles in a quick, more expedient manner with the judge being more directly involved in the case, rather than having them a parole officer or someone from the executive branch, needing to have a find a prosecutor to file a revocation of certain conditions, can help the system. I see that my light is up, but let me just finish by saying I've heard both from judges and lawyers that probation-- and I know you've heard, you've heard stories and there are, there are tons of them on-- that are just not great stories. We have seen good outcomes from probation. I think Ms. Minardi had the numbers earlier and I've, I've heard that echoed from judges and lawyers who we have talked to in developing our position. So with that, I'd answer any questions you might have.

DeBOER: Thank you, Mr. Hruza, although the light was very red.

TIM HRUZA: I know.

DeBOER: And I will point out, I'm going to take it off your next time or something. All right. Senator Geist.

GEIST: OK. I have a question, because you said this and, and it's been alluded to before and even in some of our letters and I'm curious: that a probation officer and a judge can have conversation and there's no attorney there for the juvenile and this can go on and be part of a case that's built for the juvenile with no representation?

TIM HRUZA: Correct. So the presentence investigation is made, based on an interview or, or a review of the case. Oftentimes, there's other-- depending on the situation, right, it depends a lot on the, the situation involving the youth, but-- or, or the adult, for that

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matter, but they conduct a pre-sentence investigation, where the probation officer is, kind of, a bit of a fact finder in terms of determining what's going on. They then present those-- that to the court. A copy of that is given to both parties, both the-- both attorneys in a case, before a decision is made from the judge. But yes, the probation officer is allowed to have a conversation with the court. I will tell you that I have heard from attorneys and judges that that is a very-- that can be a very helpful thing, where they're allowed to have a free flowing conversation. I would also tell you that even when I talk to defense counsel-- there are some that have concerns about that. There are plenty who think that it works pretty well to be able to do that. Rather-- I mean, the other option is you, you place it in the executive branch, which is the prosecutorial branch, right? That is on, on the other side. And then, you lose the ability for a judge to converse directly with them, without all parties present. But that person would be able to talk to, you know, a, a prosecutor, right, or, or either, either party without the judge, as well.

GEIST: I, I, I, I guess I ask because I just didn't realize that this could go on without an attorney for the juvenile or the adult, who-- whoever, without them being present.

TIM HRUZA: My understanding, Ms. Minardi or someone could correct me, but my understanding is with them as an employee of the court, they're, they're considered an arm of the judiciary.

GEIST: So how is that transparent?

TIM HRUZA: Like I said, they prepare a, an-- it's been a long time since I've seen one of these--

GEIST: And I just don't know the system, so I--

TIM HRUZA: --but they prepare that investigation and then it is provided to both parties. Defense counsel before is, is able to make a case if they disagree with a portion of it. Same thing with the prosecutor's side. If they want something different, disagree with the recommendations or with the, the findings or what they've-- they have in the report. I mean, it is still subject to the court review.

GEIST: --but the court was in on the conversation, so how is that subject to court review?

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TIM HRUZA: So one other, one other aspect of this and this is where I say like, the placing the individual under the supervision of the court, right, on probation, allows some flexibility there then for a judge to handle the case. Right. So one example that was--

GEIST: It's just different. I, I [INAUDIBLE].

TIM HRUZA: --right. it is, it is just different. It's different than a parole violation, where you would file a, a new incident or you would file a complaint that would-- to revoke or to change-- revoke privileges or change things. There are oftentimes, in a probation instance, where the prosecution may still file something. But there's also flexibility, where a court can place certain conditions of probation, like you might have, you might have certain conditions where a couple of days a month, you have obligations where, you know, you may go check in for a weekend once a month and spend some time in a jail under your, your conditions of probation. A probation officer, now, could tell the judge, this person's been doing a really good job. They're complying with things. And the judge can waive that without having to have a hearing, waive that weekend in jail. And there's some flexibility things that, that can happen there, when a probation officer is able to be responsive to the individual that they're-- and, and directly contact the judge.

GEIST: But you can also-- I mean, I don't know. Maybe I'm just so out of this world that I don't get it. But my little suspicious nature would make me go, yeah, but how do I know what you said? I-- so anyway, you don't have to comment to that. Thank you.

DeBOER: Senator McKinney.

McKINNEY: Thank you. Where, where do you see some areas in improvement for probation?

TIM HRUZA: I don't know if I'm best situated to answer that. I do think and, and I think that this conversation today and I may be speaking a little out of turn, but I do think that the conversation today does highlight some areas where you all might engage with probation a little bit better and find instances or areas where you can address some of those-- the, the concerns that have been stated here before. Right. Places where we can adjust statute, rather than a wholesale transition from one branch of government to the other, to have conversations about what the needs are in the system, if it is some sort of secured facility for those, those "time out" situations

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that you alluded to earlier, Senator, I think those are, are productive conversations. From a bar association standpoint, I don't know where we would be in that, but I do think that that type of conversation is a bit more targeted than kind of a wholesale change. And like I said, I, I do think that although you have some, you have some anecd-- you have some bad stories and you have some outcomes, there are some good things that are happening in probation and that have happened as-- even as the transition from juvenile took place, 10 years ago now.

McKINNEY: All right. Thank you.

DeBOER: Thank you, Senator McKinney. Other questions? I do not see any. Thank you for being here.

TIM HRUZA: Thank you, Vice Chair.

DeBOER: Next opponent.

FRAN KAYE: Thank you, again, Senators. I'm still Fran Kaye, and I'm still testifying for myself and the RAN Racial Justice Policy Group in opposition to LB479.

DeBOER: Can you spell your name please?

FRAN KAYE: F-r-a-n K-a-y-e.

DeBOER: Thank you.

FRAN KAYE: Sorry. I'm going to-- I'm passing out this, but I'm going to change it, in response to some of the things that have been discussed today. I have volunteered in the prisons for a long time and I have just lived through a young relative's post-release supervision. He lives with me. I should point out that half of my family, excuse me, is Native American. And the people that I will be talking about today are Native Americans, so this does speak to brown people in the system. My biggest problem with moving probation from the judicial to the executive branch is sort of in opposition to what Senator Geist said. I realize that everybody knows who the Governor is. I realize that if anything goes wrong, there's going to be lots and lots of screaming and yelling. And I'm kind of worried about "Willie Hortonizing" ex-offenders. That's-- that happens pretty easily. I'd just like to say that my nephew, who lives with me and who's the father of my adopted child, which creates such a sense of incest I can't even begin to explore it, but he just went through post-release

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supervision. I don't think it's useful for me to have four armed people in my kitchen when my child comes down to get ready for school. But they were very nice about going outside when I told them that. I've complained a lot about probation and because I've been complaining and asking questions, I'm really pretty happy with the way probation is going. There are certainly changes that would enhance it. And my main thing that I see is that if you look at the, the-- any of the laws on probation, they all say all of the things that-- all the penalties and punishments and sanctions. There's very little about what, what you need to do to really help people. My nephew wanted to go back to college. I had to do all of the thing. His probation officer had nothing to say. When his, his doctor was promoted, he had to get another one. She had nothing to say. We had to find it. So I've been complaining a lot and I think that probation is really going in the right direction, that they are, they are moving toward things that help people. Five years ago, I had another young relative who was on probation and she's a mess. She has a lot of mental issues and she needed supervision and she didn't get it.

DeBOER: Thank--

FRAN KAYE: I'm out of time.

DeBOER: Thank, thank you very much. Let's see if there are any questions. Is there any questions for this testifier?

FRAN KAYE: Thank you.

DeBOER: Thank you so much. Next opponent. Is there anyone else who would like to testify in opposition to this bill? Is there anyone who would like to testify in the neutral capacity? Welcome.

JENNIFER CARTER: Good evening, Vice Chair DeBoer and members of the Judiciary Committee. My name is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, and I serve as your Inspector General for Nebraska Child Welfare. The OIG was created by the Legislature for the purpose of legislative oversight and the kind of accountability that has been discussed here today, for the care and supervision of children and youth in Nebraska. I am providing neutral testimony to make the committee aware of the challenges to the Legislature's oversight in the juvenile justice system. Like with the child welfare system, the role of our office is to investigate complaints of misconduct by employees or any deaths or serious injuries of youth on probation. I want to be very clear. These are not criminal investigations. We have

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no authority to do that. These are administrative reviews. And then, we have to do a report and make recommendations for system improvement. Unfortunately, we have not been able to provide the legislative oversight that's required under the-- our statute, because probation has taken the position that legislative oversight of juvenile probation violates the separation of powers required under the Constitution. In some ways, this has just related to protocols that pro-- probation would like us to follow, related to in-- interviews during our investigations with which, we believe, under, sort of, how IG's work, compromises the integrity of the investigation. But further, the state court administrator, in the last two years, has brought an amendment to the Executive Committee that would remove probation from the jurisdiction of the OIG and legislative oversight all together. So to be clear, we cannot look at any court orders or any court decisions. The only action by probation that we could review at all are nonjudicial actions. These are the actions that, as has been discussed, could sit in the executive branch, by the Constitution. The-- probation's position has impeded legislative oversight, even with regard to sharing basic information. For example, there was a private facility that had a lot of issues recently. Both HHS and Probation pulled their youth. We were able to talk to HHS about that. We were-- we asked to have that conversation with Probation so we could better understand how to judge whether that facility was prepared to take youth back. And probation has refused to have that conversation on the same basis. So really, we just wanted to make the committee aware of the challenges, because I think they're-- from our perspective, we just believe accountability is important and the Legislature has the power of oversight, wherever probation sits. And-- but it's just-- it's a particular challenge we faced with it sitting in the judiciary. And just to be clear, we haven't been able to look at a lot. So this is not a judgment on how Probation is actually performing. I see my light is up. Happy to answer any questions.

DeBOER: Thank you. Are there questions? Senator Geist.

GEIST: Would you finish your thought, please?

JENNIFER CARTER: Yeah, I just-- the IG sits on a lot of committees and commissions with the folks who run juvenile probation. And I think they put a lot of thought into their work. And I appreciate a lot of how I understand from those committees they, they are running-- the office. But I-- what we don't know and what is not available, as contemplated under the OIG statutes, is a real independent and

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impartial review of how some of the activities are going. So I just want to offer that as you consider this, how to handle that, depending on where it sits.

GEIST: So what are the conditions that you could receive any information from probation for juveniles?

JENNIFER CARTER: Under the statute or what's kind of happening now?

GEIST: Under the statute.

JENNIFER CARTER: Yeah. So we are-- we could-- we can-- really, if you're looking at a death or serious injury, we do-- we write a letter and we usually get access then, to some documents. What we have had trouble doing is then interviewing to see what happened in that particular case. And our goal is and the purpose of our office is to say, are there-- how are the procedures and policies set up? How did they work in this particular case or were you constricted by the law, in some way, for doing something that would have reduced the risk of death or serious injury? And that's the type of information we're supposed to provide to the Legislature, to say, you might need that information to consider revising the law so that it-- Probation can do what they feel they need to do or, or here's a challenge that's come up in the system. We've seen it in a variety of cases. That's the kind of work that we do on the HHS side and it's the same thing that would be contemplated for probation.

GEIST: So specifically, what you're allowed to look at is if someone dies--

JENNIFER CARTER: Right.

GEIST: --a child dies or is seriously injured.

JENNIFER CARTER: Seriously injured. Or if we receive a complaint that there's been a violation of the rules and regulations or state law, in terms of how probation is supposed to work, we can also look at those.

GEIST: But you're saying that you-- you're just not given full access.

JENNIFER CARTER: Under the protocols that Probation would like us to utilize, yes. We can't complete a real investigation without being to-- without being able to interview folks. And then I, I don't know, to be honest, because we have not initiated one since the amendments have been brought to just remove Probation from our jurisdiction,

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period. I, I-- at, at this point, like, Probation does a great job of sending us notices of sexual abuse allegations of youth on probation. So that has continued. I would assume that we would be able to get the documents, at least, when, when we initiate our next investigation. But it's, it's just been-- and I understand, because we could not review a court order. That would be completely inappropriate and I don't even know how that would actually work. So I understand that there's got to be real sensitivity to that. And we have to be very clear about the parameters of our work. But it has just created some real challenges, as we're trying to navigate how to do that. So it's something to-- I think it could be done, but-- and, and we feel our act is entirely within the bounds of the Constitution. But it's something to consider as you're deciding where to put it.

GEIST: OK. Thank you.

DeBOER: Thank you, Senator Geist. Other questions from the Committee for this testifier? I do not see any.

JENNIFER CARTER: Thank you.

DeBOER: Is there anyone else who would like to testify in the neutral capacity? As Senator Wayne is coming up for his closing, I will tell you that there have been six letters, one in support, five in opposition. Senator Wayne, you are recognized for your close.

WAYNE: Thank you, colleagues. So first up, if the parent is watching, Uta Halee is in my district. It's not quite the middle of nowhere, but it is a beautiful place in the middle of nowhere. No, but seriously, I think what you heard today is there's-- seems to be frustration of some gaps that we got to figure out how to fill. I look forward to having more-- working with all the parties to figure out how to do that. I do think that more and more I've been here, particularly in this role. There is something around parole and post-supervised that we really have to-- this committee is really going to have to figure out. I think one quick thing we could do for a judiciary is they are almost like an ombudsman, not reporting to the Legislature, but somebody within their division or a few people within their division to handle complaints and parents' complaints on how things are happening, particularly at the juvenile level. And I don't know if we do that at the county level or statewide, but, but there's-- the problem with, particularly in the situation you heard with the parents, is there's just no alternative. There's no what's the recourse? You can't sue the court. I mean, I guess you theoretically

could, but there's just-- there's nowhere for parents to turn and so, maybe, figuring out how to help that process along. To Senator Holdcroft's question and point earlier about the fiscal note, I'm still scratching my head on, on that, particularly the one around the Parole Board, which says it has no, no real impact. Creating a whole agency has no real impact, so maybe they don't do work. I don't know. It's just weird. I'll leave that alone, but-- and I'll close. That's It. Any questions I'll be happy to ask-- answer.

DeBOER: OK. Are there questions for Senator Wayne? Senator Wayne, I don't see any, so that will end our hearing on LB479 and begin our hearing on LB348, which is, once again, our own Senator Wayne.

WAYNE: Good afternoon, Judiciary Committee. And I will make this short so we can get out of here. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and this bill, I represent District 13, which is north Omaha and northeast Douglas County. This bill will provide the framework for hopefully one of our priority bills. It is a vision I've been having for the last 3 years, 4 years, about helping to figure out how do we get prisoners back to society in a way that makes them productive and, and, and they don't slip back into the, to the old things that they were doing. So LB348 would adopt the Community Work Release Treatment Act, which intends to empower the Nebraska Division of Parole Supervision to contract with providers to establish a work release and treatment centers at various locations throughout the state. Studies have shown that prison out-- post-prison outcomes will tend to be better if those inmates are prepared in work-release programs from their discharge. Because it's a little late, I'm not sure who all's going to be here, but what I envision is if somebody is from Norfolk in the prison, rather than letting them jam out at Tecumseh and trying to figure out a way home and to go back to the same individuals that helped, maybe, helped bring them there, if we have, particularly in these smaller communities, halfway houses is one way to describe it. I think you have to look no further than Bristol Station in Hastings, which has a great track record. But if we set up a, a, a program where there is a private sector component, what I mean by that is jobs. Somebody actually overseeing these individuals as they get on parole or parole supervision, that we could start integrating people back into one, solving our workforce problem, but also setting them up for success. It's one of the biggest problems we have when people get out of prison is they have no money or no income, so they return right back to the same situation and the same people. So if we can set them up differently, it'll be helpful. It doesn't make sense that we have community corrections and work ethic camps in

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McCook, in Omaha, but yet somebody from Chadron can't access the same type of halfway or community corrections type program. We have over 200 people in community corrections, which means they're eligible to be in the community. And what I'm trying to figure out and our framework that I'm trying to get done this year, is to say, by 2025, 2026, this must happen. And, and that gives the Department of Corrections and the Parole Board and others, particularly the private sector, the business sector, the ability to come together in these communities and, and bring, what I would say, good employees and good individuals. Specifically, some of these findings indicate that those inmates who participate in work release programs have a higher likelihood of attaining post-release employment within the first quarter after their releases and have significant lower rates of recidivism. Why is that important? Because we spend about \$40,000 a year on housing someone in our prison system. If we can reduce our recidivism rate, which is around 27-30 percent, depending on the year, just by 5 percent, we're talking \$5-7 million we can save annually as a state by making sure we get people back out into the system. Additionally, studies have indicated that inmates who participate in privately-operated work-release programs were more significantly to become employed after their release. And this is again, part of what I'm trying to do is-- let's take and I haven't mentioned the steel company by name, but let's just use Norfolk. If they have three, if they have 30 jobs on third shift that they can't fill, but we can put 15-20 people back from their community who are safe, who have gone through programming or can get programming while they're there, then that's the way to solve some of that employment that we-- underemployment or unemployment that we have where people can't find workers. They would be paid regular pay and they'll be drug tested on the regular because they're post-supervised release, release. So it just seems like it's a great fit. We have a huge overcrowding prison population. I understand that we'll most likely have to build a new prison. But one thing is consistent about building a new prison is the day it opens, it will be full. That-- nobody is denying that math. So then, what do we do with the 800-1,000 people we have in community corrections and how do we make sure we lower recidivism, but give them an opportunity to succeed? So this is an attempt and it's been different iterations over the last three years, to make sure that we have reentry officers that are trained and assisted by the parole admission. Kind of stole that from Senator Geist's idea of having more assistance around this, this post-supervised release and parole. But to me, it's a, it's a, it's a step in the direction to give parole more responsibility. And now, I'm even toying, since I wrote this

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bill, about like a pre-parole program that we can sign people up for. Department of Corrections has the authority to name any facility a correctional facility. We just have to make sure we have it secure, that it's safe, and we have the right people running it. And I think we can do that. There are plenty of reentry programs in, in Omaha. But what I think is-- can happen is also integrate people back into the small towns and rural areas who are looking for employees. And those people are going back there anyway, so let's make sure we integrate them back into society, society successfully. Again, I'm trying to figure out a way to not let people jam out, to create more programs and to eliminate the excuses of why certain people can't be paroled. I said a whole lot real quick, because it's late. Yes.

DeBOER: All right. So we'll start with Senator Blood.

BLOOD: It's a quick one. Don't worry.

WAYNE: You with a quick question?

BLOOD: This is a quick one.

WAYNE: I'm giving you a hard time.

BLOOD: So the problem is I think out loud. You know that's the problem, by the way. And I apologize for that.

WAYNE: I understand. I do the same thing.

BLOOD: So if I read your bill correctly, would I be accurate if I said that this also opens us up to opportunities to do public-private partnerships, which will help keep the costs down. For instance, the vocational training, the specialized vocational training. We could bring unions in, to teach people to be h-vac people or electricians or-- and then go to those small towns that are lacking those services.

WAYNE: Correct. Correct. And in no way are we privatizing the prison or nothing like that.

BLOOD: No, no, no.

WAYNE: But what we are trying to do is create this transition, where there may be a demand in Ogallala that they need electricians and there could be 20 people on community corrections right now, in our facilities, that could go there, start and learn that trade and fill those positions. Because they're going to get out in two or three

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years and they're going to go back to Ogallala, let's make sure they go back successfully.

BLOOD: All right. So you're saying yes.

WAYNE: Yes. Yes, ma'am.

BLOOD: All right.

WAYNE: I gave you a long answer to a short question. Sorry.

DeBOER: Thank you, Senator Blood. Senator DeKay.

DeKAY: I like the-- I like what you're bringing here today. Just from a little bit of personal experience. The only thing-- my concern is, it's not a problem, but my concern is, is these people going back to the environment that they were living in. So that they don't get caught up in that same whirlpool environment that they-- put them in the prison system to begin with, so try to get them in a different atmosphere that's going to give them a better chance to be successful, would be something that I think we need to look at, too.

WAYNE: And this bill is going to, is going to have a lot-- still has a little bit of work to do to figure out how to put those key components in there. But that's the intent, is to make sure that before they jam out the day of, they don't call the same people and say come pick me up, that, that they are established, they have a work, they have skills and they can separate themselves from, from those individuals.

DeBOER: Thank you, Senator DeKay. Are there any other questions for Senator Wayne? I don't see any, Senator Wayne. Thank you.

WAYNE: Thank you.

DeBOER: Let's go with our first proponent.

DeKAY: Senator DeBoer. Our last chairman, committee chair, said that Spike could only speak twice.

DeBOER: Well, I haven't heard him speak it today, so I guess he's fine.

SPIKE EICKHOLT: Thankfully, he's not presiding now. Good evening. My name is Spike Eickholt, S-p-i-k-e, E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska in support of LB348. You've been here

all day. It seems like it's been a long week, so I'm not going to read my statement to you. Senator Wayne explained that this is an idea he's got and I think he's really onto something. And I think that as he explained it, this might be a part of whatever this committee does if they do anything, with respect to criminal justice reform and the, sort of, consequence, if you will, of making a new prison. I've, to my testimony. I've actually attached some selections from this-- and no, it's not a prop [INAUDIBLE] you know what talking about. It's a 2022 Master Plan report, which is what the Department of Corrections commissioned, with respect to a facility study that relates to the new prison. And I've selected a couple of portions from that. If you-- you've all received it, if you've not had a chance to read it, I wanted to elevate a couple of things. First, the first couple of attachments kind of explain the current population and their anticipated time of release. And what you see of both male and female inmates, is that almost half of the population is within three years of release from the prison system. I say that because a lot of the people who are in our prison system are going to be leaving soon, either on parole or maybe, in a work release type setting. And I think this bill would be a complement to that. And one other thing that Senator Wayne did mention earlier and it's on sort of the last 2 pages of the attachment, with respect to the facility studies, are the findings and recommendations for what to do with the Master Plan and the needs for the Department of Corrections between Phase 1, which is 0-5 years and then, Phase 2, 6-10 years and then, further years in, in, in the future. If you look at one of the recommendations on page 4, hyphen 3, 4.3, they explain that the new prison to replace the state penitentiary: new prison-- build a 1,512 bed prison for male offenders, expandable to 2,040 and 3,000 beds. In other words and I think Senator Wayne may have mentioned this before, if you replace a current prison, the expectation in the next few years is immediately to, essentially, double that population. This, what Senator Wayne's got in LB348, might be a more nuanced approach to that, given the fact that many of the inmates are only there, I think the median time of service is 30 months. This might be a way to sort of address that. I just wanted to put that on the record. You've got the selections from the studies. You probably have the actual facility studies. I just wanted to elevate that and put that on the record. If anyone has any questions, I'll answer them.

DeBOER: Are there any questions for this testifier? Senator Geist.

GEIST: Just quickly, I'll ask. The only real barrier that I foresee is maybe employment.

SPIKE EICKHOLT: Right.

GEIST: And the broad availability of people willing to hire people who are on work release. Given where you are and the, and the people that you represent, but also what you see across the state, do you see that as a barrier, one that can actually be overcome quickly or where are we at?

SPIKE EICKHOLT: I don't know that I can give, admittedly, a comprehensive answer to that. I know that in some of the medium-sized communities across the state, they are facing a workforce problem that's even greater than Lincoln and Omaha. I'm just-- any really kind of employee, and I don't know if we've really had an experience with this state. We have a couple of work release centers. We have one in Lincoln, out by Pioneers Park and we have one in Omaha. And at one time there was the work camp in McCook, but they've converted that, basically, to a prison. So I don't know that we've ever really had something that's like, this is a vision, where you have an effort to somehow transition the population and reenter them throughout the state as, maybe, a kind of a workforce option or something like that.

GEIST: I'm just curious if you think we're becoming more open-minded business wise--

SPIKE EICKHOLT: Right.

GEIST: --about hiring people who, who are just getting out or maybe have a felony on their record? Or are you seeing a, a mind shift at all?

SPIKE EICKHOLT: I think so. I mean, you see a number of bills that deal with second chances, like those ban the box bills, Senator Brieser did a bill that's in government this year that tries to narrow on these various professions that automatically exclude people with criminal records because-- and I don't mean to be a soapbox. You know, we have a lot of crimes and it used to be maybe, at one time, being convicted of a felony automatically meant that that felony was a violent thing. You did something horrible to somebody. Not that felonies aren't bad, but that's not necessarily the case now, with our criminal code. And, and I don't think-- I think that maybe that is a growing awareness, I think, that policymakers and really, all people are starting to kind of appreciate.

GEIST: OK. Thank you.

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DeBOER: Thank you, Senator Geist. Other questions for Mr. Eickholt?

SPIKE EICKHOLT: Thank you.

DeBOER: Thank you. Next proponent. Anyone else who would like to testify in favor of this bill? We'll switch to opponents. Welcome.

BOB DENTON: Thank you. Good afternoon, members of the Judiciary Committee. My name is Bob Denton, B-o-b D-e-n-t-o-n. I am the deputy administrator for the Adult Probation Services Division and employed by the Administrative Office of the Courts and Probation. I testify today in opposition of LB348. My intent today is to provide this committee an update and an overview of post-release supervision as it currently stands. And 2015 Justice Reinvestment through LB605, expanded the use of probation. This included ensuring lower-level felons received community supervision upon release from incarceration, including prison and local jails. The courts and probation were selected to provide post-release supervision upon recommendation from the Council for State Governments and passed by the Legislature based on a successful track record, which included a full transition and implementation of evidence-based practices. While still incarcerated, probation navigators engage inmates to collaboratively develop a reentry plan which is then submitted to the judge for approval. Probation officers also prearrange with community partners needed services to begin immediately upon release, which include substance use and/or mental health evaluations and treatment, life skills and supportive housing, for example. In addition to preparation and planning for reentry, by order of the court, probation officers currently supervise over 1,200 post-release supervision individuals, 89 percent of whom have been assessed as a high to very high risk to reoffend. Even with this expanded population, probation success rates remain stable and our current recidivism rate for post-release supervision individuals is 27 percent. The vast majority of these individuals are assessed with a validated risk instrument and again, scored a high to very high risk to reoffend. Supervision in case management involves frequent engagements, conducting employment, home and treatment visits and includes an average of 28 drug and alcohol tests per individual. Another strategy for post-release, for the post-release supervision population has been the development of reentry courts, available in Sarpy and Hall counties. Reentry courts operate similarly to drug courts, but are designed explicitly for the reentry population. Post-release supervision individuals also have access to Probation's 17 reporting centers, which serves as a one-stop

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shop for needed life skill services like employment and enhanced supervision opportunities for added accountability. I ran out of time.

DeBOER: Thank you. Let's see if there's any questions for you.

BOB DENTON: OK.

DeBOER: Senator McKinney has one.

McKINNEY: What is your opposition? This sounded like neutral testimony.

BOB DENTON: So in the bill is-- it, it would require post-release supervision to be removed from the judicial branch to the Department of Parole. That's what we oppose.

McKINNEY: OK. But in your testimony, I didn't hear that.

BOB DENTON: I probably should have clarified that a little better, but that-- that's the reason why we oppose that.

McKINNEY: Why?

BOB DENTON: Because we feel we're doing a good job. We have good outcomes. We've built the program since 2015, as directed by the Legislature. And we feel like we're doing a really good job and we want to be able to continue to do that.

McKINNEY: But in my talking with people in reentry and talking with individuals who have been incarcerated, they have a lot of issues with parole and probation and supervision. So do you think there are some areas where you guys can improve or you think you're just doing a good job?

BOB DENTON: I think we're always looking at ways to improve.

McKINNEY: In what way?

BOB DENTON: We do a lot of training for officers to better engage the individuals we supervise, to help them become motivated to want to change, to get people identified earlier for the needed services such as mental health, substance use treatment, increase in their employability skills and things like that.

McKINNEY: What about housing?

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BOB DENTON: We do have funding available for transitional living, so when someone is in need of safe and sober housing, we do pay for that. It is not an expense for the individual. And while they're at the transitional living facility, the officers are also trained to look for that long-term housing to help them transition out, you know, full time.

McKINNEY: Do you provide them with any resources for transportation, like a bus ticket, bus passes, things like that?

BOB DENTON: We do. We, through our reporting centers, we have transportation funds available for bus passes, other transportation method reimbursement for the clients.

McKINNEY: One thing I've heard from speaking to individuals that are inside is like a lot of them, especially those that have spent a lot of time inside, it's that-- the need for transition, as far as like, the social piece of it, learning technology and all those type of things. Do you guys assist with that?

BOB DENTON: We-- probation officers will help their clients to get into job training programs. We have employment programs in our reporting centers that will assist them to find those opportunities.

McKINNEY: But what about like social reintegration, reintegration, reintegration programming, because it-- I've, I've-- like before I was a senator, I helped out in the community. And it, it was a few times I had to help with like, the basics of learning how to use a smartphone. And that was frustrating for, for some people, if like, I'm confused. I don't know what to do. I got released, I need help, but I don't even know how to use a smartphone. Do you guys help with them transitioning and those type-- not just job skills, but life transition?

BOB DENTON: We do have life skill training opportunities for the clients and it varies. We assess each individual and try to identify what needs they have and then, target our interventions to their specific needs. So if they do have some learning disability, then we try to accommodate for that and try to find those services and supports in the community that will help, help them be successful, after they're off probation supervision.

McKINNEY: Do you think probation is not a clog in the system?

BOB DENTON: I don't understand the question.

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McKINNEY: Because, you know, length of stays are up. Admissions are down, length of stays are up. Do you think probation is being a positive asset for the state, as far as getting people out of prison and back into society, reintegrating them properly and effectively.

BOB DENTON: One of the reasons for the post-release supervision that was identified through LB605 was the fact that there were a lot of individuals that were jamming out of the prison and not having those supports in the community to help them transition. So we have really focused post-release supervision on being able to help them transition, provide those supports, provide treatment, so they don't just turn around and end up getting rearrested. And then, it becomes a revolving door for them. So we feel that community supervision, rather than jamming out, is better for not only the individual but for the community, too.

McKINNEY: So you're not the problem?

BOB DENTON: I think it's a, a systemic problem. I don't want to say we're not the problem. I think we all have to look at fixing the problem together. And we are committed to doing that.

McKINNEY: All right. Thank you.

BOB DENTON: You're welcome.

DeBOER: Thank you. Senator McKinney. Other questions for this testifier? I don't see any. Thank you so much for being here.

BOB DENTON: OK. Thank you.

DeBOER: Next opponent. Welcome.

DIANE SABATKA-RINE: Good evening, Vice Chair DeBoer, members of the Judiciary Committee. My name is Diane Sabatka-Rine, D-i-a-n-e S-a-b-a-t-k-a-R-i-n-e, and I'm the interim director of the Nebraska Department of Correctional Services. I'm here to testify in opposition of LB348. The Department devotes a tremendous amount of time and resources to reentry preparation for all incarcerated individuals, whether they will be paroled, released to post-release supervision or released without supervision. Our reentry focus and process is integrated into everything we do. Separating reentry, the Vocational and Life Skills Program, VLS, or community corrections from NDCS will make it difficult to maintain our commitment to rehabilitation without the resources necessary to make those services or programs available

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to all in custody. A tangible example of our reentry focus is evidenced in the reentry planner I've handed out. This planner is given to each person and is used throughout incarceration by individual inmates with various staff. Ultimately, it guides them to develop their reentry plan for success. We are eight years into building the VLS program and have served more than 9,400 individuals through VLS since its inception. We collaborate with parole and probation to select providers. There's a mixture of programs provided pre- and post-release. The pre-release programs are essential to ensuring that inmates are job ready upon release. For example, VLS, VLS funds are being used to establish software coding programs that will be available while individuals are still in our custody. This bill would also begin the process of moving community corrections to the Parole Board. Our community corrections centers provides an essential link from higher custody levels to complete freedom. Individuals at these facilities benefit from daily structure and rules while working toward their educational goals, identifying job opportunities and reconnecting with family. In FY '22, 97 percent of individuals deemed appropriate for community custody transitioned through a community corrections center before release. Approximately 60 percent of our inmates do not discharge through the parole process, but 93 percent of our population will transition back to our communities. As illustrated in the handout, keeping these programs under the direction of NDCS ensures that every individual, regardless of release time, has access to programming and resources needed to successfully transition by the time they leave NDCS custody. Lastly, we have a technical concern in Section 28, in that the VLS funding is transferred to the Parole Board starting in July of 2023, but those programs would not transfer to the-- to parole until July of 2024. NDCS would not be able to carry out these programs for that year without funding. I respectfully ask that you do not advance this bill and allow in NDCS us to continue the good work of reentry planning, administering VLS and operating community corrections centers. I'm happy to answer any questions that you have.

DeBOER: Are there questions for this testifier? Senator McKinney.

McKINNEY: Thank you. If the Department is doing a good job at reentry planning, why are-- why has the admissions to parole decreased?

DIANE SABATKA-RINE: Could you restate your question, just so I understand what you're asking?

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McKINNEY: If the Department of Corrections is doing a good job at reentry planning and preparing men and women for success after incarceration, then why have the amount of people being released on parole decreased?

DIANE SABATKA-RINE: Well, I think that that can be impacted by a variety of factors. Parole eligibility date is one. So in January 2025 or January 25 of this year, when we were in our most recent numbers, approximately 81 percent of our population had not met their parole eligibility date yet. So, of those that, that are eligible-- the parole eligible population, 83.1 percent have committed or they're in the process or they have completed their, their assigned treatment and programming while with us. So I can't speak to why the Parole Board does or does not parole someone, but we are working really hard to ensure that, that treatment is completed prior to parole eligibility date and that they are parole ready when they're eligible.

McKINNEY: Is RTC-1 the reception center and what is the population?

DIANE SABATKA-RINE: RTC-1 is the reception center and I think their population, their count this morning was maybe 522.

McKINNEY: Is that where the initial classifications take place?

DIANE SABATKA-RINE: Yes, it is.

McKINNEY: Does the policy dictate that additional classifications is completed within 30-45 days?

DIANE SABATKA-RINE: Yes, it does.

McKINNEY: Does that happen all the time?

DIANE SABATKA-RINE: It does not happen all the time. And we are aware right now that we have a lag and we have a plan in place to address that lag.

McKINNEY: When that happens, how does that affect the in-- an individual's initial classification?

DIANE SABATKA-RINE: Well, certainly it's slows, slows down their initial classification.

McKINNEY: So are there individuals housed at RTC that fit the criteria for community corrections but cannot transition to community

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corrections, because the initial classification has not been completed?

DIANE SABATKA-RINE: That's a possibility. Yes. Which is why it is so important to us that we clear that backlog and that we stick to our policy to ensure that those classification-- initial classifications are done within the time frame provided.

McKINNEY: How bad is your backlog?

DIANE SABATKA-RINE: I can't give you the exact numbers. I don't know.

McKINNEY: So what is the function of the WEC facility and the individuals' classification levels that are sent out to WEC?

DIANE SABATKA-RINE: So the work ethic camp is a minimum B custody facility. So that's just a step higher than community corrections. So oftentimes, individuals who have an outpatient substance abuse treatment program or an inpatient-- excuse me-- an intensive outpatient substance abuse treatment recommendation or need some other type of programming, will go there in preparation for either parole or community corrections.

McKINNEY: What are the programs offered at WEC and when the programs are completed, is that a significant event to reclassify an individual from minimal to community corrections?

DIANE SABATKA-RINE: So I can't tell you all of the programs that are there in addition to the treatment programs we provide. There's also some work detail oppor-- opportunities out there, on a, on a work detail status. And certainly, when you complete programming, it can be considered a significant, significant event, depending on your sentence structure.

McKINNEY: So are you currently holding people at NSP when they complete their WEC programs?

DIANE SABATKA-RINE: Are we holding people at NSP after they're at WEC? Not that I'm aware of.

McKINNEY: OK. Are you housing individuals that are eligible for community corrections at NSP?

DIANE SABATKA-RINE: So individuals at the state penitentiary could be classified to community corrections from NSP. They would remain at NSP

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until they're classified and until there's-- they're transferred to a community corrections center.

McKINNEY: So are you-- is that a space issue?

DIANE SABATKA-RINE: I don't know that it's so much a space issue. Again, I don't know how long people are waiting. It's, it's a process issue.

McKINNEY: I-- we visited NSP. What was that, about a month or so ago? And I talked to somebody who said he was classified to go to community, but he's been waiting months to get to community. So how long does, how long does somebody get classified for community do they wait to get to community? What's the average length of, length of time between getting classified and then, getting into community?

DIANE SABATKA-RINE: I don't know that number off the top of my head. I think that's something we could provide to you.

McKINNEY: All right. Thank you.

DIANE SABATKA-RINE: Um-hum.

DeBOER: Thank you, Senator McKinney. Other questions? So I'm not entirely sure I followed all of-- this-- the acoustics in this room make it difficult. So I'm not entirely sure I followed all of what you said. So is there a waitlist for getting into community corrections right now, like a-- there's folks who are classified and are waiting?

DIANE SABATKA-RINE: So it's possible there are.

DeBOER: OK.

DIANE SABATKA-RINE: What I don't know is how many are on a wait-- the waitlist--

DeBOER: OK.

DIANE SABATKA-RINE: --and, and how many are, are waiting. When I checked earlier this week, there were beds available at community corrections. So that's usually an indication that we are caught up on our transfers. But that can change day by day, based on the flow of classification, on the amount of people leaving community corrections, so I can't give you an exact answer for that today.

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DeBOER: Another thing, I remember-- the years are running together, but years ago, asking your predecessor about-- there was some problem with hiring enough staff or assigning enough staff, staff, which I know is not such a problem for you now. So I'm just asking about the transfer. So you had some transfer problems. Would that potentially get in the way of sending people to community corrections?

DIANE SABATKA-RINE: The staff to transfer them there? No, that's not an issue anymore.

DeBOER: Wonderful.

DIANE SABATKA-RINE: I mean, I think years ago that might have been an issue, but certainly that's not the case now.

DeBOER: OK, That's wonderful news. And then, when we're just talking about reentry in general, one of the things the Parole Board member who testified earlier today said and this is vaguely on topic, so I'll ask you, was that there-- that programming is-- has been a problem, in terms of getting people paroled. Is that something that you're aware of?

DIANE SABATKA-RINE: So I'm not sure what Mr. Twiss might have been speaking to. So there's treatment. Those are the things that are mandatory, typically. that must be completed before the parole would be-- would consider them. And then there's programming. So those are more of the cognitive-based things, so I'm not sure what he's referencing. We are doing a really good job of getting people done with their clinical treatment prior to their parole eligibility. We probably have the data on other types of programs, but I'm not sure, specifically, what he was referencing. I will tell you that I meet at least once a month with the chair of the Parole Board and so, if there are issues like that, she shares those with me so that we can follow up. So I don't know that it's a significant issue. There could be individual cases, certainly.

DeBOER: OK. All right. Other questions? Senator McKinney.

McKINNEY: Thank you, Reentry officers are supposed to contact incarcerated individuals about 120 days before they are to jam out. But, you know, there have been complaints that those reentry specialists don't get to them until weeks before they jam out. So why is that?

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DIANE SABATKA-RINE: So I'm not aware that that has been an issue, but certainly, that's something we can follow up, to see if they are not meeting with them at least that 120 days out.

McKINNEY: OK. And I got two more. I'm serious. Maybe, but it depends on how you answer, I guess. But have you guys put options on land for the new prison?

DIANE SABATKA-RINE: So that would be confidential and that's not something that I can, can address specifically. I can tell you that we have looked at a couple of different options.

McKINNEY: Between Omaha, and Lincoln?

DIANE SABATKA-RINE: I can tell you that we've looked at a couple of, of options.

McKINNEY: OK. Last one. Do you plan to close NSP and demolish it if a new prison is voted on this year, once it's open?

DIANE SABATKA-RINE: Our, our plan for the agency is that when the new facility is opened, NSP would be closed and it would be decommissioned.

McKINNEY: What is-- I'm-- decommissioned as in what?

DIANE SABATKA-RINE: So as I've explained at a previous hearing, decommissioning is a process that we would do in partnership with the building division. There's some statute that govern that. It basically-- you review the grounds, you determine if any, if, if any of the buildings can be salvageable to be used for a different purpose, what buildings need to be demolished and we work in--

McKINNEY: So there's potential for NSP to stay open and be repurposed for something else?

DIANE SABATKA-RINE: We don't have a plan to do that for the Nebraska Department of Correctional Services.

McKINNEY: But it potentially could happen.

DIANE SABATKA-RINE: There is potential for the state of Nebraska to use buildings on that ground for something else.

McKINNEY: So not a minimal security facility?

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DIANE SABATKA-RINE: The Department has no plan to do that today. No.

McKINNEY: OK. Thank you.

DIANE SABATKA-RINE: Um-hum.

DeBOER: Thank you, Senator McKinney. Other questions? Thank you so much for being here, Interim Director.

DIANE SABATKA-RINE: Thank you.

DeBOER: Are there others who would like to testify in opposition? Was there anyone who would like to testify in the neutral capacity? As Senator Wayne makes his way up here, I will note, for the record, that there were two letters, both of them in support. Senator Wayne, you are welcome to close on LB348.

WAYNE: Thank you. And so, real quick, [INAUDIBLE]. One, I just had a constitutional issue and I don't know, maybe I'll ask for an Attorney General, Attorney General Opinion on the post-supervised release. And here's why I say that, for the committee to understand, once your sentence is done and you leave the courtroom, that court no longer has jurisdiction. So any appeals, all that [INAUDIBLE] at the Court of Appeals, But that court can't call you back in and resentence you. And what's interesting is on post-supervised release, they can actually end your post-supervised release early. And that's a commutation of their sentence and the court can't do that, so that's the issue I was trying to figure out. Regardless, I can get rid of the post-supervised release in this bill. My bigger concern is the interplay between Department of Corrections and the Parole Board. I think we have a-- we heard today, in a different bill, that programming and write-ups in the violent-- the violence crime were the kind of top three reasons. But Corrections just testified that 83 percent of the people who are eligible for parole finish their programming, so there's a, there's a disconnect somewhere in there. So I don't know what that is, but-- I don't know. And so, my point is, is we have to figure out how to get parole more, more involved and get people paroled and hopefully, we can do this. As far as a programming and staffing issue, just real quick. Part of, I think, the problem of, of hiring staff and I'm, and I'm speaking particularly of mental health therapists and, and some programming people, is not everybody wants to work in a facility like NPS-- NSP I mean. You have some lifers there, you have people who have committed some violent crimes. And you also have some people who are, Senator McKenney pointed out, waiting for community corrections. I

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think it's easier to fill this programming role if we had a-- another quasi-facility that focused on community corrections. I think there are a lot more people who will go work in a community corrections situation than prison. Not saying right, wrong or indifferent. I'm just saying that's the reality. So by figuring out how to move these individuals to a pre-parole program or something like that, three years out and then, they can go before the Parole Board while working and doing things, I think is the, the easiest way for us to reduce our prison population. Because whether they're out in-- they jam out in two years or we get them programming through those two years, have a significant impact on their lives. But either way they're out in two years and they're back in our communities. So let's give them the best chance to be successful. And with that, I'll answer any questions.

DeBOER: Questions for Senator Wayne? Senator Wayne, I have one.

WAYNE: Yes.

DeBOER: What are you envisioning here, in terms of what this looks like in an actual structure? Is this a dormitory? Are these houses? Are these--

WAYNE: Hastings' Bristol Station is more of a dormitory style. Some people, at the federal level, have, have houses that have rooms and I think we have to leave it flexible enough for a, a nonprofit or a provider in Sidney to be able to provide anywhere from 5 to 10 or 15 folks. I think that's part of what we have to work out in this amendment are some of the guidelines. But there's good transition houses or facilities that are working across the country that we can-- we got one right here in Hastings, Bristol Station, so we can figure that piece out.

DeBOER: And what-- just give me a sense if you know, since you've been working on this, what are the numbers? So if I'm talking about a small town, if I'm talking about Columbus, Nebraska, or something like that, how many folks are we thinking are going to be going through these kinds of places in a year?

WAYNE: So to me, I think, in order to keep the accountability piece, it would be on the number of businesses who'd commit to hiring folks. So if you have businesses, let's say Columbus and they got some manufacturers up there and they need 40 people, then I think, from a public safety standpoint, we obviously don't want to fill all 40, because we think people there should actually be able to apply. But if

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we could fill 20 in that regard-- what I don't want to do is have a, a facility or a house in, in Cedar [SIC] and they don't have any jobs. And we send them there and they're all just kind of sitting around waiting for the next move. I think part of the structure has to be a, a partnership with the business community saying, who are you going to bring in? And we got to define what that looks like. We're not going to pay somebody minimum wage when everybody else is making 21 bucks just because they're-- they've been convicted. Like, there's things we got to put in statute to help flesh this out a little bit, but I think we find a good number of these committee-- these communities can take. But the key is for me, they got to have a job. They got to have some kind of a working-- so we're not just sitting them somewhere.

DeBOER: Is this going to be labor intensive in terms of employees that I guess the Department of Corrections would be running these facilities, so are there going to be a lot of-- we've just come through all of this with staffing. We know that the small towns are having trouble hiring people for the jobs that they have there. Is this going to be a problem for hiring in these various places to, to staff?

WAYNE: No. I think that's where these individual communities can come together and, and say, you know, there's a-- an employer who wants to do something and they're having a hard time filling these positions. I mean, it's up to the community to own that. And some of them may say no, but some of them may say absolutely yes. I mean, we have people right now who are driving from, I think, NSP, on a bus to a, a, a manufacturing facility. You have people in my district, at Community Corrections, that you have Loziers and Airlite Plastics who are begging for people and I still can't figure out why they're within a half mile, they can't, they can't get there. I mean, that's the, the force that we got to put behind the statute is get people back in, in these jobs, in the community.

DeBOER: I think I'm asking it from the opposite direction. I'm saying would there be enough correctional workers in these small towns to run these, these facilities?

WAYNE: Yeah. I think so.

DeBOER: OK.

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WAYNE: I think, again, same reason as therapists. I think working in a facility is stressful. Working in community corrections is probably a little less stressful.

DeBOER: OK.

WAYNE: And I would, I would defer to people who actually work to validate that.

DeBOER: OK. Senator DeKay has a question.

DeKAY: Real quick. Going into like, these communities and I'll just throw North Platte into the mix, where-- because it hasn't been called out yet today. But say, going into North Platte, would there be a mechanism in place that these-- to help these individuals get job placements in a constructive manner, like in a manufacturing place that's going to show them working and being very productive, rather than the community just filling their needs with filling a night shift at McDonald's or something?

WAYNE: No. Right. So I think part of it is and part of the evaluation, which is going to be a pretty detailed bill, is, is not only are-- has a, has an employee committed through an MOU or some type of agreement, but they're also committing to building skill sets so when they, when they-- they can either hire them afterwards or they have a skills set to go somewhere else, whether you're a tool dye operator or a machinist.

DeBOER: All right. Thank you, Senator McKinney, now.

McKINNEY: Thank you. And Senator Wayne, do you think it's problematic that, although policy dictates initial classification to be done within 30-45 days, that the Department has a backlog?

WAYNE: Well, I think if you combine that testimony, along with the testimony we heard earlier from the Parole Board, those who have short sentences, if they're already behind 45, 60 days, and they'll never get an opportunity for parole in their short sentences. So if they're, if they're a, a two- or three-year sentence or a 1 to 1, if they're already 45, 60 days behind and they come in parole eligible, then what you heard earlier is we don't even consider them, because we don't, we don't have time at-- on the Parole Board. So we literally have people sitting on short sentences that could be eligible for parole that don't need to be there.

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McKINNEY: Thank you.

DeBOER: Thank you, Senator McKinney. Other questions? There are no other questions. Senator--

DeKAY: Just kidding. Just kidding.

DeBOER: All right. With that, then we'll end the hearing on LB348 and end our hearing for the day.