

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee March 22, 2023

WAYNE: Good afternoon and welcome to the Judiciary Committee. My name is Justin Wayne and I am representing District 13, which is north Omaha and northeast Douglas County, and I serve as the Chair of Judiciary. We will start off today by having members of the committee and staff do self-introductions, starting with to my right.

MEGAN KIELTY: Megan Kielty, legal counsel.

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

BLOOD: Good afternoon. Senator Carol Blood, representing District 3, which is western Bellevue and eastern Papillion, Nebraska.

WAYNE: All right. Also assisting us is our committee pages Logan Brtek from Norfolk, who is a political science and criminology major at UNL and Elizabeth, hey, Elizabeth, Elizabeth Kolb from Omaha, who is a political-- Isabel, sorry, Isabel-- I said that all year and now I messed it up, political science and prelaw major at UNL. This afternoon, we will be hearing five bills, we'll have one joint hearing. Oh, we're not? OK, we have five bills and they will taken up in order outside of the room. On the table to the side of the room, you will have-- find blue testifier sheets. If you are planning to testify, please fill out a blue testifier sheet so we can have an accurate record of how to spell your name. If you do not wish to testify but you would like your presence recorded in the hearing, please fill out a gold testifier sheet. Also, I would note that it's the Legislature's policy that any letters of record must be submitted to the committee by noon the prior day of the hearing. Any handouts from testifiers, if you don't have ten copies, please give them to the committee page before you come up and testify so we can have ten copies for the committee. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, you will hear from supporters of the bills called proponents, then you will hear from those in opposition called opponents. Following the bill, you will hear from those in a neutral capacity. After that, we'll have the introducer of the bill if they wish to close make closing statements. We ask that you begin your testimony when you come up to testify by stating and spelling your first and last name. We will be using the three minute light system today. When you begin your testimony, the light will turn green. When you-- when it turns yellow, that means one minute more-- one minute warning. And then when it turns red, it means wrap up. I would like to remind everyone, including senators, to please turn off or silence or vibrate your cell

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phone. And with that, we will open the hearing on LB581. Senator Cavanaugh, welcome to your Judiciary.

M. CAVANAUGH: Thank you. Thank you, Chairman Wayne and members of the Judiciary Committee. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I have the privilege of representing District 6 in west central Omaha. I'm here today to introduce LB581 and I think this is my first time with this legal counsel. So hello, nice to meet you. LB581 creates a pilot program at the Nebraska Correctional Center for Women and the Youth Rehabilitation Treatment Center for females to access doula services during pregnancy and postpartum. The Journal of Perinatal Education reported on research that compared two groups of pregnant women in the same prenatal care classes, one group chose to work with a doula, the other group did not. After all the babies were born and impacts recorded, the comparison showed that mothers matched with a doula had better birth outcomes. Doula-assisted mothers were four times less likely to have a low birth weight baby, two times less likely to experience a birth complication, and significantly more likely to initiate breastfeeding. Simply by having a doula assisting, assisting the mother, her health and the health of her infant were improved compared to the groups without a doula. I would like women in the Nebraska correctional system or in the Youth Rehabilitation Treatment facility to have access to support and healthy start for their infants. That's the genesis of LB581, healthier moms and babies. Women in our correctional and rehabilitation systems are at a higher risk for stress-related complications and less access to normal prenatal care than would be found outside of the system. They need that extra support a doula can provide. The current nursery program is a big help for women at the women's correctional facility in York, but the extra assistance of a doula would improve outcomes even more. Recently, there has been some communication about screening of visits-- screening of visiting doulas at the hospitals. Although an amendment is not ready at this moment, I am working with the Hospital Association on crafting that amendment and I would be happy to take any questions that you may have.

WAYNE: Any questions from the committee? Seeing none-- oh, Senator DeKay. You literally had your hand right where that mike was and I was just-- I could not see you.

DeKAY: Does that mean I'm pretty thin?

WAYNE: Oh, man, hey, I wish I had that issue.

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DeKAY: My apologies, Senator Cavanaugh, I couldn't hear everything real--

M. CAVANAUGH: Oh, sure.

DeKAY: --well, so.

M. CAVANAUGH: This room has really great acoustics.

DeKAY: But with that, what, what all is the amendment going to entail then going forward?

M. CAVANAUGH: What will the amendment entail?

DeKAY: Yeah.

M. CAVANAUGH: Well, that's what we're still working on is to, is to fine tune the, the language to make sure that it's agreeable with-- I brought this on behalf of I Be Black Girl who will be testifying today, but the Hospital Association had some concerns and so I want to work with both groups to make sure that we're addressing the concerns and maintaining the integrity of the bill. So I don't quite know yet what it's going to say, but I will be sure and bring it to the committee when it's available.

DeKAY: I appreciate it. Thank you.

M. CAVANAUGH: Yeah.

WAYNE: Any other questions from the committee? Seeing none, thank--

M. CAVANAUGH: I will not be staying to close.

WAYNE: All right.

M. CAVANAUGH: So thank you very much.

WAYNE: No problem. First proponent. First proponent. Proponent. Spike, next time don't get up when I say proponent. I mean, seriously, how many times have you been here? Second proponent. Are you the first proponent? OK, you can be first. Wait, are you not? OK. Wait, I'm confused. Oh, this is so confusing today. Welcome and how are you doing?

ALEDIA MIKALE: Thank you.

WAYNE: Go ahead. You're fine.

ALEDIA MIKALE: All right. My name is Aledia Mikale. It's about A-l-e-d-i-a, last name is Mikale, M-i-k-a-l-e. Chairperson and members of the committee, my name is Aledia Mikale, and I'm here today to speak in support of LB581, a bill that is required of the Office of Juvenile Services and Department of Correctional Services to create a pilot program for the doula services and the birthing people that are incarcerated. As a black woman and owner of Doula Kompanion, I have personally experienced and seen firsthand the disparities that exist in the maternal health outcomes for black birthing people. In Nebraska, black women are three to four times more likely to die from pregnancy-related complications than white women. And infant mortality rates in our state are higher than the national average. The Prison Policy Initiative has reported that women in the prison have-- sorry-- higher rates of chronic health conditions and pregnancy-related complications that women in the general population just don't have. While comprehensive data on maternal mortality rates for incarcerated women is lacking, we assume that the limited access to quality healthcare and support services also the stress of being incarcerated while pregnant would cause the rates to be even higher. Exposure to stress and trauma during pregnancy can relate in negative outcomes such as premature birth, low birth rates, and developmental delays. The trauma associated with incarceration, including separation from family and community, can worsen these negative outcomes and cause long-term healthcare-- sorry, long-term health consequences. Research has found that exposure to high levels of stress during pregnancy can have a lasting effect on the development-- develop-- developing fetus and child in their future health and well-being. Children born to mothers who experience stress during pregnancy are at higher risk for behavioral and emotional problems, cognitive delays, and learning difficulties. Furthermore, the stress and anxiety associated with incarceration can also lead to mental health challenges for the birthing person, including depression, anxiety, and PTSD. To address these issues, I'm advocating for doula services for pregnancy, labor, delivery, and postpartum. Doulas can provide emotional, physical, and educational support which can help reduce intervention and complications during birth. Additionally, doulas can also alleviate stress and anxiety during their postpartum and improving that-- the birthing and postpartum for both the mom and baby. I'm going to skip down. I don't have as much time. Excuse me. In conclusion, I urge you to support the LB581 and help ensure that all incarcerated birthing persons have access to doula services that can improve their mental health and outcome. We want to bridge that gap and to ensure that we have the support and resources that they need so that they have a safe and, safe and healthy birth. It is a wise investment for the health

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and well-being of our communities. Thank you for your time and consideration.

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

ANDY HALE: Thank you, Chairman Wayne, members of the Judiciary Committee. My name is Andy Hale, A-n-d-y H-a-l-e, and I am vice president of advocacy for the Hospital Association. And we are in support of LB581 with the amendment. And I'll address Senator DeKay's question in regards to the amendment. The, the issue that we have at York General Hospital, which is the facility that would handle most, if not all of these individuals, is we want the doula to be certified as a visitor would be going into a facility. So however the Department of Corrections determines that we don't want to step in that, but if that individual is allowed to be in the correctional facility as a visitor, then we want the same rules to apply when they're in our hospital. Oftentimes that has happened before, not just with doulas, but individuals that are with the family. They've come to the hospital and, and our staff have encountered problems because it's usually a nurse that is the individual that has to tell them no, and it, it just causes security concerns. So we would defer to the Department of Corrections on however they want to define who this visitor is and other than that we have no problems with it.

WAYNE: Any questions? Senator DeKay.

DeKAY: Would that doula or nurse, would that be a person that would be on call 24/7 to be available when labor would start?

ANDY HALE: Yeah, my understanding is that the patient, the mother would be able to appoint that and, yes, that person would be available at that time.

DeKAY: If it's during their normal shift work as a nurse at the hospital, York Hospital, would they be, be compensated by York Hospital or by the Department of Corrections?

ANDY HALE: I don't know who would compensate the doula. I, I guess I'd have to look into that question. I'm not sure of that process of how that would work.

DeKAY: All right. Thank you.

ANDY HALE: Um-hum.

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

ANDY HALE: Thank you.

WAYNE: Next proponent. Proponent. Welcome.

ANAHI SALAZAR: Thank you. Good afternoon, Chairperson Wayne and 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 represented Voices for Children in Nebraska. Every child deserves to experience healthy, loving relationships from the moment of birth, and every mother deserves the support we can offer to foster and sustain their relationship. Voices for Children supports LB581 because it creates a pilot program for doulas in the Youth Rehabilitation Treatment Center or YRTC-Hastings for young mothers and their newborns. Pregnancy and childbirth are emotional and impactful experiences for mothers. A trained doula is a trustworthy person who provides emotional, physical, and informational support to the mother before, during, and after birth. Doulas have the unique opportunity to support women throughout their pregnancy, starting with prenatal information and care through labor by helping provide positive birth experiences which help create positive health outcomes and fewer complications and interventions. And lastly, with postpartum care supporting women in what can be referred to as the fourth trimester as well as looking for signs of postpartum depression. LB581 creates a doula pilot program because it recognizes the importance of preserving prenatal relationships for both mothers and babies. Mothers, even those in facilities deserve a positive pregnancy experience with the expectation that they will be able to bond with their child. We should do everything we can to ensure the pregnancy experience and bonding and preservation of families when mothers are committed for residential treatment. For young mothers the unfamiliar environment of a hospital can be stressful and frightening. Most girls at YRTC are far from, are far from home and family who can provide supportive care during and after labor. Giving birth can be a traumatic event that shouldn't be experienced alone or without experienced support. Ensuring a healthy and supportive birth experience for young mothers who are in the YRTC can help maternal self-esteem and foster a thriving relationship from day one. This is especially important because girls in YRTC are within the juvenile court system, where all systems should be aimed at their rehabilitation and best interests. And services at YRTC should be aimed at holistic wellness for when they return home. For a girl becoming a new mother while at the YRTC, the potential impact of a doula to provide care and support cannot be overstated. Currently,

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there are a number of states that offer doula support for incarcerated mothers such as Minnesota, Georgia, and Michigan. Nebraska should also be doing all they can to support mothers and their newborns. We would like to thank Senator Machaela Cavanaugh for her leadership on this important issue and the committee for your time and consideration. Thank you.

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

KELSEY ARENDS: Thank you, Chairperson Wayne and members of the Judiciary Committee. My name is Kelsey Arends. That's K-e-l-s-e-y A-r-e-n-d-s, and I'm the healthcare access program staff attorney at Nebraska Appleseed testifying in support of LB581 on behalf of Nebraska Appleseed. We are a nonprofit legal advocacy organization that fights for justice and opportunity for all Nebraskans. And one of our core priorities is ensuring that all Nebraskans have equitable access to quality, affordable healthcare. Because LB581 promotes equitable access to healthcare, Nebraska Appleseed supports this bill. For many years, the maternal mortality rate in the United States has consistently worsened and exceeded that of other high-income countries, and the U.S. has particularly high mortality rates for black pregnant people. Pregnant people who are incarcerated are also particularly vulnerable to poor health outcomes. A disproportionate number of people entering correctional facilities have chronic, undetected, or unaddressed health issues. It's crucial to ensure correctional practices address the health needs of those who are giving birth while incarcerated. Making doula care available to those who are incarcerated can improve health outcomes and result in cost savings. Evidence indicates that doula care can improve health outcomes and birthing experiences for both the pregnant person and the baby. Evidence has shown that doulas reduce the need for medical interventions like cesarean delivery, which are riskier for pregnant people and for babies. Continuous labor support provided by doulas has also improved five-minute Apgar scores for infants. Additionally, doulas-- doula care also has the potential to reduce healthcare spending overall. Doula care's reduction in cesarean births alone can reduce costs, but doula care may also reduce costs by preventing birth complications for pregnant people and their baby. For these reasons, we respectfully request that this committee advance LB581.

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

KELSEY ARENDS: Thank you.

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WAYNE: Next proponent. Proponent. Welcome.

SCOUT RICHTERS: Thank you. Hi, my name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska. Birth equity for Incarcerated Nebraskans, Nebraskans fits squarely at the intersection of the ACLU's work to support the reproductive freedom of all Nebraskans, as well as our work to ensure that Nebraskans who are incarcerated are treated with dignity and have access to life's basic necessities. Thanks to Senator Cavanaugh's work in this area, LB690 passed in 2019 and prohibits the shackling of pregnant and, and postpartum people who are incarcerated. LB581 builds on these efforts to ensure safer deliveries, healthier outcomes, and less traumatic births for Nebraskans who are incarcerated by offering doula support for those who go into labor while they're in state custody. From time to time, the ACLU receives intakes from pregnant Nebraskans detained in our county jails and state prisons. We've actively investigated claims of mistreatment and civil rights violations for incarcerated pregnant women, successfully litigating one such case and investigated concerns about the childbirth process in at least one, one instance. Doulas provide individualized care and education about pregnancy and childcare and ways to reduce stress and promote healthy pregnancy. This is particularly important for pregnant Nebraskans who are incarcerated, a disproportionate number of whom are Nebraskans of color because people of color, as you heard, face maternal mortality rates nearly four times greater than, than their white counterpart. So as such, we offer our full support for LB581 and I urge the committee to advance this bill.

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

SCOUT RICHTERS: Thank you.

WAYNE: --today. Any other proponents? Proponents? Welcome.

NYOMI THOMPSON: Good afternoon, members of the Judiciary Committee. My name is Nyomi Thompson. That's N-y-o-m-i T-h-o-m-p-s-o-n, and I'm representing I Be Black Girl. I Be Black Girl serves as a collective for black women, femmes, and girls to actualize their full potential to authentically be, through autonomy, abundance and liberation. I'm testifying in support of LB581. Pregnant people who are navigating incarceration are among the most disregarded populations in the United States. These individuals have unique and significant healthcare needs which affect them and their families' long-term well-being, yet are being overlooked. A majority of the women's prison population are

parents in a reproductive age. In particular, 82 percent of black women navigating incarceration fall into this population, which has strong implications of the importance of adequate and equitable reproductive care. Regardless of being incarcerated, black women and people with the capacity for pregnancy have higher rates of mental health conditions, chronic illness, and a higher likelihood of dying from birth than other racial groups. This can be attributed to the documented and continued impact of systems of oppression and implicit bias and unequal treatment of black women. Black women having to navigate incarceration only increases these disparities resulting in the following: four out of five people experiencing incarceration report having depression or anxiety, 63 percent of women in both prison and jail report having a chronic condition, and according to the CDC incarcerated black birthing folks are 3.5 times more likely to die during childbirth compared to white birthing folks. An opportunity to improve maternal health outcomes for incarcerated population is expanding access to doula care. Research has correlated doula care with a 64 percent less chance of experiencing postpartum depression and anxiety and increased ability to bond with their newborn, fewer C-sections, and fewer low-birth weight babies. In addition, doulas reduce the harmful effects of racism by providing culturally appropriate, patient-centered care. This is an issue that not only directly impacts the birthing person and infant but transcends into black families and communities. We ask you to support the reproductive and birthing experiences of black birthing folks and move LB581 to the next step of the legislative process.

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

DIANE SABATKA-RINE: Thank you. Good afternoon, Chairman Wayne and 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. I'm the interim director of the Nebraska Department of Correctional Services. I am here today to provide testimony in opposition of LB581. Our primary concern with this bill is the security risks that certain provisions pose to our facilities and the community. This bill excludes consideration of prior convictions or current supervision status when determining if an individual is appropriate to provide doula services. This circumvents the department's oversight for determining who is authorized to provide services at our facilities. Since these individuals would have access to various locations within the facility, the department needs to be able to provide oversight for doulas in the same way we would with volunteers to include reviewing their background to ensure they

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are appropriate for this undertaking. LB581 would also put the department out of compliance with the federal Prison Rape Elimination Act, or PREA standards, which require correctional agencies to perform a criminal background check before enlisting the services of any contractor. The PREA standards also prohibit correctional agencies from enlisting the services of any contractor who, who may have contact with inmates if the individual has committed certain disqualifying acts. Furthermore, to implement this bill NDCS would need to notify the doula when prenatal visits or a cesarean section is scheduled. Providing people outside the department with advanced notice of schedule appointment times creates a significant security risk when transporting inmates outside of the facility. Additionally, the bill says that pregnant inmates shall be permitted access to a trained or certified doula, but it is unclear what training or certification is sufficient since we've been unable to identify any state standard or certification for doulas. Currently, similar types of services to those discussed in this bill are provided by NDCS nursing coordinator, other NDCS staff, or hospital staff. The assistance currently provided meets the intent of this bill without posing the same safety and security risks as LB581. Thank you for the opportunity to testify today and I would be happy to answer any questions that you have.

WAYNE: Any questions from the committee? Senator McKinney.

McKINNEY: Thank you. Do individuals with prior, you know, convictions or things on their record currently volunteer besides institutions?

DIANE SABATKA-RINE: We do have some volunteers who have past criminal records. We also have some of our volunteers that are approved to come in and provide services that remain on parole.

McKINNEY: So what are the disqualified acts that would prevent somebody?

DIANE SABATKA-RINE: So from a PREA standpoint, they are primarily any of those sex-related offenses that people have in their past. So burglary might not be a disqualifying event, a sexual assault could be.

McKINNEY: So if Senator Cavanaugh proposed an amendment that would allow for background checks and exclude anybody with any previous sexual convictions on their record, would you still be in opposition?

DIANE SABATKA-RINE: I think that if an amendment allowed for us to do screening similar to what we do with visitors or other volunteers or contractors, that would address part of it. The other security issue that exists for us is notifying volunteers or service providers in advance of scheduled medical appointments in the community. Any time we transport an inmate outside of the facility, there's just a security risk that goes along with that. And so generally that information is considered confidential and not widely shared so that concern would still exist.

McKINNEY: So what's the medium to that, though? Where's the medium?

DIANE SABATKA-RINE: I think the medium might be that the doula service could be provided for certain events, but perhaps not all of them. So again,--

McKINNEY: [INAUDIBLE]

DIANE SABATKA-RINE: --well, if you have a routine medical visit scheduled, we couldn't give them advanced notice of the routine medical visit. And I don't know that they would necessarily have the flexibility to just once they've arrived at the destination of that medical visit that we could reach out to the doula and say come in now. I think that that might be burdensome for them. So those are the, the parts of this that would be pretty challenging from a security aspect to address.

McKINNEY: So if an individual is going into labor would that be OK?

DIANE SABATKA-RINE: So once the individual arrives at the hospital and they're present there, then a notification is possible, I believe. But--

McKINNEY: So what's the usual timeline once somebody is transported from the facility to the hospital that you alert anybody that they're at the hospital and they're in labor?

DIANE SABATKA-RINE: So the usual timeline from departure from the facility to the hospital?

McKINNEY: No, like-- so if somebody currently goes into labor, do you alert the family or somebody that, hey, X person is at this facility in labor? Do you--

DIANE SABATKA-RINE: We would notify them once they're at the hospital.

McKINNEY: OK. So once they get to the hospital.

DIANE SABATKA-RINE: Yes.

McKINNEY: OK. So the language probably could be, we'll alert the doula once they get to the hospital.

DIANE SABATKA-RINE: Correct.

McKINNEY: OK. Thank you.

DIANE SABATKA-RINE: OK. Um-hum.

WAYNE: Any other questions? Senator DeKay.

DeKAY: At the, at the facility, is there, you know, when you talk about routine medical appointments and stuff, is there a pediatrician after, you know, the baby is born and stuff that's on staff at that facility or do they have to go to a clinic for those [INAUDIBLE]?

DIANE SABATKA-RINE: So we don't have a, a pediatrician on staff at the facility but we use those providers that are available in the York community, primarily.

DeKAY: Are most of the doula that come in are they, as earlier testimony, are they more of-- would they be a registered nurse or they could, or they could just be an individual friend, family member, or whatever that could be in that capacity?

DIANE SABATKA-RINE: So I don't think we have any doula that are currently being used at the Nebraska Correctional Center for Women. And my understanding is that doula do not necessarily have to have a nursing degree, but rather there is other training and certification available to them. But I might not be the best person to ask about their training.

DeKAY: But when they, when, when they come into the facility to act as a doula and then they, and they have the same restrictions coming into the facility, the background checks and stuff as a regular visitor would at that point or would they be more stringent?

DIANE SABATKA-RINE: It would be very similar to a, a, a visitor or a, a volunteer or contract provider that, that exists currently.

DeKAY: All right. Thank you.

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

DIANE SABATKA-RINE: Thank you.

WAYNE: Any other opponent? Any other opponent? Welcome.

SARA MORGAN: Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Sara Morgan, S-a-r-a M-o-r-g-a-n, and I'm the deputy director of Health Promotion and Prevention for the Division of Public Health within the Department of Health and Human Services. I'm here to testify in opposition to LB581, which proposes to require the Office of Juvenile Services to create a pilot program for doula services at the Youth Rehabilitation and Treatment Center, and to require the Department of Correctional Services to create a pilot program for doula services at the Nebraska Correctional Center for Women. There's currently no state regulatory authority over doulas and no requirement for criminal background checks. The absence of a credential in Nebraska is a concern for public safety, as there are no specific education or training requirements by the state to standardize a doula's education, competencies, skills, or services provided. Furthermore, LB581 states that a doula cannot be denied eligibility, eligibility solely on the basis of a prior criminal conviction or if the doula is currently on pretrial release, probation, parole, or post-release supervision. This requirement of the bill is in direct conflict with our state background check and federal Prison Rape Elimination Act, PREA, standard 28 CFR 115.17 for hiring and promotion. This standard prohibits the hiring or promotion of any individual who may have been convicted of or engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. The PREA standard requires a background check and abuse registries' check at hire and at subsequent points during employment, as well as provides a means for individual self-reporting of convictions or prohibited activities. Any omission of reporting misconduct will result in the termination of the employee. This is a federal standard that adds significant protection for this vulnerable population. I've included a copy of the PREA standard as an attachment to this testimony for your, for your review. DHHS respectfully request that the committee not advance this legislation. Thank you for the opportunity to testify today. I'm happy to answer any questions.

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

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BLOOD: Thank you, Chair Wayne. Thanks for coming in today. Since you are in public health, I just have a quick question. Explain the difference to me between a midwife and a doula.

SARA MORGAN: Well, because the doulas don't have a standard for the training and education that they go through, it can vary significantly depending on what organization offers those services. It's very difficult to, to say overall what types of skill set every doula has. Typically, doulas offer a lot of emotional support for the pregnant woman prior to and then during and potentially after the birth event. And I think previous testifiers have discussed already some of the benefits that can come from doula services. But again, that lack of standardized training or education is where it becomes difficult.

BLOOD: How do we know that there's a lack of training would we base that on?

SARA MORGAN: Lack of standardized training. I'm sorry.

BLOOD: OK, that's, that makes a lot more sense to me. Again, though, how do we know they are lacking standardized training? You mean standardized training that we've put in place.

SARA MORGAN: Yes.

BLOOD: So we do have the ability to put that in place.

SARA MORGAN: Yes.

BLOOD: All right. Thank you.

WAYNE: Any other questions? Senator McKinney.

McKINNEY: Thank you. What's the demographic of doulas usually?

SARA MORGAN: I'm sorry, could you repeat that?

McKINNEY: What is the demographic of doulas usually?

SARA MORGAN: The demographics of doulas?

McKINNEY: Yeah.

SARA MORGAN: I don't believe I can answer that question for you, Senator. I'm sorry.

McKINNEY: And what would be the benefit of a standardized test?

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SARA MORGAN: Our concerns are around making sure that any individual who has access to this vulnerable population has a certain amount of competency and skills that the state has reviewed and allows for that background check.

McKINNEY: So do you not think doulas currently have the competency?

SARA MORGAN: Again, there's no standard education or certification for doulas right now. So one doula could have a vastly different training experience from another.

McKINNEY: So would you be less in opposition if the PREA standards were applied to this bill?

SARA MORGAN: I think if there's an amendment that's been offered, we'd be happy to look at that specific language and, and give you feedback.

McKINNEY: All right. Thank you.

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

SARA MORGAN: Thank you.

WAYNE: Next opponent. Next opponent. Opponent. Seeing none, anybody testifying in the neutral capacity? Seeing none, Senator Cavanaugh has waived closing. We have 18 letters for the record: 4 in support, and 14 in opposition. And that will close the hearing in LB581. We will open the hearing on LB89. Senator Hunt, welcome to Judiciary. Wait a second, let them clear out. Welcome, Senator Hunt.

HUNT: Good afternoon, Chairman Wayne and members of the Judiciary committee. I'm Megan Hunt, M-e-g-a-n H-u-n-t, and I'm here to present LB89, a bill about removing barriers for Nebraskans who want to start or grow their families. Over the summer, I was meeting with a constituent who mentioned that because of current statute, Nebraska is considered a surrogacy unfriendly state. That surprised me so I looked it up and I found that we have this statute and it says in Nebraska surrogate contracts are unenforceable by courts. Upon looking into this more, I became interested in why Nebraska would have this law so here's a quick history. The bill that created this law in 1988, LB674, was introduced by Senator Chambers. His intent was to prevent Nebraska courts from exercising jurisdiction over surrogacy contract disputes that might arise in a time when surrogacy was becoming more popular. I read some of his testimony and in it he noted that the bill does not make surrogacy contracts illegal. That is, it does not prevent people from choosing to make a surrogacy arrangement and abiding by the terms

of that arrangement. But courts having the authority to enforce these contracts, he said would result in stripping the rights of intended mothers. In bringing this bill, he came from the perspective of being a descendant of, as he put it, people who are bought, sold, and bred like livestock. And in the debate on this bill, he spoke to how being a descendant of slaves gives you a keen sensitivity to the commodification of human beings. Surrogate agencies, he warned, stood to profiteer off the exploitation of poor women of color who would never be able to have their own surrogates while rich white women would always be able to. And he basically said this was a tool available to rich women to use poor women of color as breeders. I have an immense amount of respect for Senator Chambers, but I respectfully disagree with him here, though I honor that he came from a different position and a different set of circumstances and that the world was also different when this bill was passed. I think he had some ideas about this bill that I don't agree with any more in this present day, and I don't think that the law really holds up anymore. For example, Senator Chambers had a problem with surrogacy agreements in general, and his opinion, at least at the time, was that biological fathers ought to also be required to assume responsibility for the child they create via surrogacy. He also compared traditional surrogacy in which a woman is impregnated directly with the gametes of the genetic father to adultery and said that couples unable to have children should adopt rather than arrange a surrogacy which would commit adultery. I'm taking a different view on this because I think that it's not our role as lawmakers to bar Nebraska families from making choices that work best for them. And I think it's fair to leave any surrogacy dispute up to the courts. There have certainly been biases in our court system. But to render these surrogacy agreements legally null and void means that any couple or parent wanting to be involved in a surrogacy arrangement has no legal protection of their rights or enforcement mechanism if there is a disagreement. A lot has changed in the realm of surrogate parenthood since 1988. Surrogate parenthood is now used in many circumstances, such as major health issues of the mother, same-sex couples seeking to have children, individuals who want to be a parent, and couples struggling with infertility. The choice to be a surrogate or to use a surrogate for one's child is a deeply personal and emotional one. As with nearly everything significant we humans do, there are risks of emotional or physical complications. I think that we do Nebraskans a disservice by saying that any surrogacy arrangement has to be informal and on the honor system and that there is no recourse if the intended biological parents-- if the intended parents and the biological parents don't agree on something. I will note that in my review of the history of Senator Chambers' bill, no one

testified either in favor or against this bill, and no senator debated against the bill on the floor. So it seems like it was a personal passion of the senator's and not something that arose out of constituent demand or test cases that showed it was necessary. A major problem with current statute is that courts will only grant parentage orders to genetic fathers, meaning the spouse or partner of that father has to complete an adoption in order to establish parental rights whether or not they are genetically related to the child. So with LB89, we strike that statute that says surrogate contracts are void and unenforceable. And there's also a stricken provision in there that grants automatic parental rights to the biological father. That piece was included in the law because of Senator Chambers' view that if the child resulting from a surrogacy was somehow found unsatisfactory or was no longer wanted by either the intended parents or the biological parents that someone ought to be responsible for providing for it. And he thought that should be the biological father. By striking the unenforceability of contracts provision, we cover for this circumstance by allowing couples to clearly outline the terms of what should happen in these situations beforehand in a legal contract. The Pew Charitable Trusts did a review of state surrogate policies, and there are stories of surrogates who work with agencies being asked to sign contracts saying they won't go to a handful of states with these prohibitions, including Nebraska, because if a child is delivered here it would be difficult to transfer custody to the intended parents. Many surrogates surveyed for the brief said that they want legal protections to ensure the intended parents take the baby, regardless of any birth defects or change in their own life situations. So this protection is beneficial for both the surrogate and the intended parents. There is an amendment on this bill, AM203. I filed it in February. I brought this amendment after getting some feedback that I agreed with that the bill should include some kind of protection for the health of the surrogate if a life-threatening situation arises. I heard examples where sticky situations came up mid-pregnancy, such as a woman who got a diagnosis of late stage cancer and needed to start treatment as soon as possible to prolong and save her life. But this posed a threat to the pregnancy and the intended parents threatened legal action if the woman were to seek cancer treatment even though her life was at risk. With AM203, the bill would say surrogates can't be legally held liable if they have to make choices about whether to receive medical treatment to protect their own health and safety. The language is borrowed from a similar exemption in Texas' surrogacy law. I want to leave you with an excerpt from a Creighton Law Review paper that looked at the history of this policy and its impacts. It concludes: The Unicameral should reexamine

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the social policy behind the law, especially considering the lack of debate in the law's passage and recent technological advances. Nebraska's law presumes complications that may not in fact exist and does not address surrogacy arrangements beyond those existing at the time Nebraska legislators passed the bill. The law review goes on to say that the Unicameral should provide certainty for those entering surrogacy contracts and that even a flat prohibition of surrogacy contracts with criminal penalties would provide more predictability than Nebraska's current scheme. Surrogacy contracts should be recognized to allow for individuals to create families in a way that makes the most sense to them. Those with medical conditions, those with infertility, those who are in the LGBTQ community deserve the opportunity to raise children if they want to. For some parents, surrogacy is the best opportunity to experience parenthood. There are many, many various pros and cons to why a family might choose surrogacy versus adoption and I think Nebraskans should have that choice. LB89 with AM203 would protect the rights of intended parents who are ready to start or grow their families while also protecting the life of the surrogate. Both are important. Thank you.

WAYNE: Any questions from the-- thank you. Any questions from the committee? Senator DeKay.

DeKAY: Good afternoon, Senator Hunt. We-- say the baby's born, you have the surrogate and you have the parents that are going to have it and both, both of those parties decided they didn't want that baby after, you know, came to earth, what are the protections for that baby going forward and how would that be handled? Would that be handled through an adoption agency with that or--

HUNT: Well, what this bill would do is actually put more protections in place for that baby because it would allow an enforceable contract that stipulates what the intended parents and the biological parents want to have happen should that be the case. As it stands today, I mean, the baby would just become a ward of the state immediately, basically, because any contract between them wouldn't be enforceable.

DeKAY: Thank you.

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

HUNT: Thank you.

WAYNE: --thank you. First proponent. Proponent. Welcome.

EMILEE GEHLING: Hello. Thank you. My name is Emilee Gehling, E-m-i-l-e-e, Gehling, G-e-h-l-i-n-g, and I am here to speak in, in favor of LB89. I'm a lawyer. I've been practicing in this area of assisted reproductive law for about 13 years. It's my privilege and honor to have represented hundreds of intended parents and hundreds of gestational surrogates on the other side in their arrange-- in their surrogacy arrangements. I practice in Nebraska, Iowa, and South Dakota, so I'm familiar with three very different legal approaches to surrogacy arrangements and parentage orders. Intended parents that I worked with have been cancer survivors, just general infertility. One in eight couples in the United States suffer from infertility. So it's actually a lot more common than you may even, even think. My intended parent clients have explored many opportunities to build their family and adoption, a lot of them have had failed adoptions where the birth mother changed her mind. And some of them, you know, it's important to them to have a genetic child. So I'm speaking in particular to gestational surrogacy, where the person carrying the child, the, the birth mother, is not in any way related to the child, it's actually the embryo belonging to the intended parents. On the other side, gestational carriers that I represented have been very educated, smart women, nurses, dentists, stay-at-home moms, paralegals, people who just have a very large heart and want to help another family with their family building. I also have cofounded a South Dakota surrogacy agency so I have that background as well. And the attorneys, the clinics and agencies follow a lot of best practices and guidelines from the American Society for Reproductive Medicine. I'm also a fellow of the American Academy of Adoption and Assisted Reproductive Technology Attorneys. And the law, as it stands, creates uncertainty for people who are trying to go through this process and build their families. It also protects the gestational carrier parents and the child to make sure that all three of them, their best interests are, are looked at and protected. And I urge you to vote in favor of LB89 and I'll be here and available for questions if there are any.

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

RACHAEL MIDDLETON: Hello, my name is Rachael Middleton. It's R-a-c-h-a-e-l M-i-d-d-l-e-t-o-n, and I just want to thank you for letting me come here and speak. I'm actually a gestational carrier for two wonderful and deserving couples, a woman named Lou and a husband named Liv. And I'm here today to hope that we can progress our laws on surrogacy to better help those who are in need of being able to have a-- their own child. Most of the people that are seeking gestational carriers have gone through all the options. They've gone through tons

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of heartache and loss and struggles, you know, trying to conceive their own biological child. And I feel like they should have the right to have that and gestational carriers provide that for them. I wouldn't be genetically linked to this child at all, I would basically be a babysitter or like a, you know, just someone that's watching and taking care of this child for those nine months. And that way I can hand them their baby at the end of that time. I think it would just be a wonderful thing to see their faces. I don't know if any of you have children, but when you, you know, saw your child born for the first time, just, you know, you wanted to protect them, you would do anything for them. And these parents are trying to do something like that and I think it would be a wonderful thing to do. And I think they should have the, the right to be able to do this safely. And LB89 would allow them to be protected along with me being protected as a surrogate. You know, that way when one of you guys asked about what would happen if someone didn't want the child, most of the time that's not going to happen, these people fought so hard to get to where they are to have this child and it would at least make people responsible if for some reason something like that would come up a contract would help protect everybody involved, especially that child. I think just after suffering so much loss and the science, faith, and hope would let this be possible for them and then Nebraska would allow LB89 to be approved then we could have contracts to just protect everybody. I just-- I think it just made people feel more safe and protected and, you know, they have rules, when she mentioned the ASR and guidelines, they, you know, you have to be psychologically evaluated. Both sides do. You need to have background checks. You have to be medically cleared. You have to not be on any government assistance. It's very important so that way no one's being taken advantage of. There's so many rules that they put in place to help everybody to follow. And then a lot of clinics, the reproductive endocrinologist, follow those. They want to make sure they have had a child, a healthy pregnancy. They're actually taking care of that child that was not given away. And so there's lots of things that go into this and not just, oh, I want a child, so. I'm out of time, but I would really urge you guys to pass this. Thank you.

WAYNE: Thank you. Any questions? Senator, Senator Geist.

GEIST: Just a quick one.

RACHAEL MIDDLETON: Yeah.

GEIST: Since our state doesn't recognize these contracts, is this done without a contract often?

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RACHAEL MIDDLETON: So you still, you still have attorneys. You each have your own attorney--

GEIST: OK.

RACHAEL MIDDLETON: --and then they make a contract together. But it's kind of one of those, you're trusting each other that you're going to abide by those.

GEIST: OK, just good faith [INAUDIBLE].

RACHAEL MIDDLETON: A good faith. Yes. So I've had to put a lot of trust into these two-- this couple and they putting a lot of trust into me.

GEIST: OK. Thank you.

RACHAEL MIDDLETON: Yep.

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

RACHAEL MIDDLETON: Thank you.

WAYNE: Next proponent.

SCOUT RICHTERS: Hi. Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB89. The ACLU of Nebraska believes that procreative decisions concerning whether how and when to bear a child are private and protected decisions and that the state has no compelling interest in involving itself in an intimate private arrangement between consenting parties seeking to have a child. All Nebraska families deserve the opportunity to control our lives at the most basic level, our bodies, our families, and our life's path, including if that path involves becoming a gestational carrier or welcoming a new family member via surrogacy. It is important to recognize that families are formed in a variety of ways, as Senator Hunt mentioned, and the other testifiers and Nebraskans need the autonomy and freedom to be able to make the decisions that are best for themselves and their families. So with that, we thank you and we ask the committee to advance this bill.

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

SCOUT RICHTERS: Thank you.

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WAYNE: Next proponent. Next proponent. Take first opponent. First opponent. Welcome.

MARION MINER: Thank you very much, Chairman Wayne and members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r. I'm here on behalf of the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and advances the gospel of life through engaging, educating, and empowering public officials, Catholic laity, and the general public. The Conference opposes LB89 as introduced and as amended by AM203. As originally introduced, as Senator Hunt stated in her opening, LB89 would strike statute 25-21,200, a statute passed into law after its introduction by Senator Chambers in 1988. As Senator Hunt also mentioned, it was meant to combat what Senator Chambers described at the time as the commodification of war. Another word that he used was the "thingification" of human beings. On similar grounds, many countries, including Austria, Finland, France, Germany, Italy, Norway, Portugal, Spain and Switzerland, among others, prohibit surrogacy entirely as contrary to the dignity of women and to the dignity of the family. Many more countries allow altruistic or noncompensated surrogacy, but prohibit compensated or commercial surrogacy for that same reason. Even where there is consent on both sides to carry another person's child, the practice of surrogacy is problematic because of what it does to that child. A child cannot consent to be one of the vast majority, a 2010 study said more than 90 percent of embryos do not survive the IVF process, which is what's always entailed in gestational surrogacy. A child cannot consent to being made into an article of exchange. Both the introduced and amended versions of LB89 impose those injustices on a child by recognizing surrogacy contracts as enforceable. Surrogacy treats children as products which can be purchased and delivered to adults who can afford them, and sometimes also entails the rejection of children leading to abandonment or coerced abortion if the intended parents receive an unfavorable diagnosis. This is something we've seen in other parts of the world. This is not only dehumanizing to the child, the knowledge of it also impacts the child's sense of identity and his or her family relationships. I have more, I, I was not able to get this out-- to hand out to you so you can see it today. If you'd like citations of, of what I've cited, I'm happy to provide them, but I will close there simply in stating we're opposed to the bill because we are opposed to the commodification of human beings and the making of human beings into objects entering into the stream of commerce as objects of exchange. So with that, I'll conclude my testimony and thank you for your time.

WAYNE: Senator DeBoer.

DeBOER: Thank you. So if, if there were a you can't exchange money, there can be no value exchanged, would that change the position?

MARION MINER: That would be better. There is-- I, I think there would still be issues with that, but that would certainly be better. That would solve the problem at least of exchanging human beings for compensation which is a big problem. But we're also talking about when we're, when we're zooming out and, and looking at the child and the child as a person and, therefore, a bearer of rights, we also, we also have to think about what is in the best interest of that child and what rights that child had-- has with regards to their own procreation, how they come to being and, and to their parents.

DeBOER: But that's, that's, that's kind of a strange thing, like, does a person have a right to how they came to be to--

MARION MINER: It's not something that you can fix, you know, in retrospect, but, but, yes, a person does have-- I understand why it's kind of an odd thing to try and conceptualize because you're talking about somebody who doesn't yet exist and may come into existence.

DeBOER: So when does the right get conferred on a person? Because if they can't exist but for this, then they can't have a right.

MARION MINER: Sure. Yeah, I understand that. I understand that. So but--

DeBOER: So, so-- OK-- so the--

MARION MINER: Here's maybe, maybe a better way for me to, to help frame this. So a child, a child had-- a child can't help but be born into whatever circumstances they're born into.

DeBOER: Which is already true.

MARION MINER: Right. So but a child does have-- we owe it to children to ensure, if we can where possible, that when they come into the world it's with-- it's in a situation that is going to be best for their flourishing and best for their own sense of identity.

DeBOER: I mean, I don't know, that starts to get really-- I start to get really nervous when I hear that, like, like, we're going to choose legally what kind of people can become parents and in what circumstances they can become parents.

MARION MINER: Sure. Yep, I get that and that's not where--

DeBOER: That makes me real nervous.

MARION MINER: --that's not where I'm trying to go. Where I'm, where I'm trying to go is, is simply to say human beings have certain rights. Among them, is, is the right to life. That's already implicated in this whole process. Another one of them is the right to their own parents and to a relationship with their own parents. And it's different just to make the best of circumstances that are not great after the fact, it's another thing to create those circumstances in the first place on purpose.

DeBOER: But arguably a surrogate would have parents that are, like, the parents want this child. The parents are creating the existence of the possibilities for that child. They will be united with this child. It is not saying anything about that, it is talking about whether or not there is a legal, legally binding contract for what can already occur. I mean, there's if we want to get into a biblical precedent for this, right? I mean, think about when, when Abraham couldn't have a child, what does Sarah say? Use my maid, let's have a child. I mean, so there is different ways of imagining how parents come to have children. Anyway, this is beside the point. I understand now the, the bigger problem for you is the commodification through the exchange of money. Got it. Thank you.

MARION MINER: Thank you.

WAYNE: Any other questions? I was going to start humming church music if you was going to keep going [INAUDIBLE].

DeBOER: I stopped.

WAYNE: Anyway. Any other questions? At the end of the day, though, it's, it's the, it's the-- for lack of a better term, I call it IVF, but I can't think of the name right now because I'm tired.

ANGENITA PIERRE-LOUIS: In vitro fertilization.

WAYNE: I mean, it's, it's, that's the-- besides the commercialization, that's the part.

MARION MINER: That, I mean, that's one element of it. Yes. And, and we've, we've come and spoken about that issue,--

WAYNE: Oh, I know, it's a bill--

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MARION MINER: --specifically. Yeah.

WAYNE: --and you were against it.

MARION MINER: And-- right. I mean, and, you know, I'm, of course, we are willing, of course, to have that larger conversation with anybody at any time. But that's, that's simply one element of what makes this problematic. I think that the real concern in terms of recognizing contracts for surrogacy, one of the really big concerns is, is the commodification of human beings through the exchange of, of goods.

WAYNE: Senator Blood.

BLOOD: Thank you, Chair. I'm sorry, I keep hearing this word and I need clarification, please. Modification.

MARION MINER: Sorry, commodification.

BLOOD: Commod-- see, that's the problem with this room, I kept hearing modification and that made no sense. All right. Thank you.

MARION MINER: You're welcome. Thank you.

WAYNE: Any other questions? Thank you for being here.

MARION MINER: You're welcome. Thank you.

WAYNE: Opponents, any other opponents? Anybody testifying in the neutral capacity? Senator Hunt to close and as she comes up to close we have 21 letters for the record: four in support, 16 in opposition, and one in the neutral capacity.

HUNT: I'll be waiving.

WAYNE: Senator Hunt waives closing. Oh, I guess I'm next.

DeBOER: Senator Wayne, you are recognized now to open on your LB23. Welcome to your Judiciary Committee, Senator Wayne.

WAYNE: Thank you, Vice Chair DeBoer and members of the Judiciary Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. This bill I have brought for the last five years out of a case I had in juvenile court. I'll walk you through the case and you'll see the problem that I'm trying to solve. A young woman left a domestic violence situation in Alabama. Actually, I didn't remember what this bill was about until I just read it about 15 minutes ago

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because I have so many bills. A young woman left Alabama from her abusive husband, came here to Nebraska, lived here for approximately five years, got caught up in some drugs, had a child. In the state of Nebraska, which you've heard, this committee has heard, we have a presumption that if you are married the child is part of the marriage. This child was immediately placed in juvenile custody because he tested positive for meth when he was born. Mother identified the father as somebody else. The father tried to intervene but cannot because there is a presumption of the father being the husband who she left five years ago who was abusive. There was no dispute in the record at that time that clearly this other person was the father. Even the caseworker agreed. So the judge in this juvenile case appointed me to figure out a way to allow this person to intervene on his behalf. We tried to intervene, but there was no basis for this person to intervene. Although, the court always can do what's in the best interest of the child when it comes to intervening, in particular, there has to be some kind of biological connection. The worst part of it was the judge could not order DHHS to perform a paternity action because the law already presumed the father exists. So what would have to happen is we would have to track down the father in Alabama and he would have to take a DNA test to prove that it was not his so he could disestablish paternity before the court could do it. Well, there was no way to do that. So this individual could not intervene and that's where we left it. I could talk about the appeals and all that, but it doesn't matter that's just the law. And so for five years this bill has been brought and I'll just turn to the fiscal note. We are supposed to be a state that is pro-family and if you read the fiscal notes from HHS, it literally says it could result in the rise of cases where a legal father already established but a genetic test identifies someone else as a biological father. That is the point. So they can't determine the costs because right now they just blanket deny that. Now there are some judges, at least in Douglas County, who are operating-- they're coloring a little beyond the lines to make sure this happens. But there's no way for them to force HHS to pay for the DNA test and there's nothing else you could do. So trying to fix that problem and I've been trying for a while. And as you know, as this year, if you don't have it on a priority it usually doesn't get done so that's where we are. I'll answer any questions. Senator-- oh, not my call.

DeBOER: That's my job right now.

BLOOD: I ignored him.

DeBOER: Senator Blood.

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BLOOD: Thank you, Chair-- Vice Chair DeBoer. Would you be open to an amendment that also changes the word wedlock? Because that is such an antiquated word meant to mean matrimony and it's-- and since we connect it to words like-- and I don't support these words, I'm saying this--

WAYNE: I understand.

BLOOD: --for a reason, words like bastard.

WAYNE: Right, no, I'm fine with any amendment and I'll tell you on page 3 of the bill, Bill Drafting and their, and their idea to update the, the words, used the word "intervenor" in section (3) and that cannot be because you can't be an intervenor until you actually have somebody determine you to be an intervenor.

BLOOD: Right.

WAYNE: So what would happen is the Supreme Court could say, well, the Legislature already made them an intervenor and that's not-- it's defiant because they have to provide an affidavit at the time. So, yes, I'm open to an amendment. We would already have to make an amendment on, on, on section (3)--

BLOOD: Thank you.

WAYNE: --or paragraph (3).

DeBOER: Any other questions from the committee for Senator Wayne?
Senator DeKay.

DeKAY: In the DNA testing, if the, one, the father that says he claims to want to be the father, if he was willing to pay for the DNA testing, is there any, is there a law or anything in statute that says that he can't?

WAYNE: No, but you still-- no it doesn't. You can pay for it. The issue is still they can't intervene because they're not the legal father in Nebraska. So as much as HHS has opposed this in the past because of the cost, that's never been the issue. It's really the, the legal problem of not being able to intervene because you still have a father that is recognized by the state and you can't have two fathers in this, in this state. So, so in the case that I was speaking of is the father actually wanted to take the child and tried to take the child, but they couldn't even place him because there was an actual other next kin of placement from the mother. And since he is

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considered a, a stranger to the kid in the eyes of the law, the kid actually went to a stranger who was the aunt instead of his biological father.

DeBOER: Thank you, Senator DeKay. Are there other questions? Senator Wayne, is there-- is the problem that because they haven't intervened in the case they can't be recognized as the father or is the problem that they don't even have the ability to get a DNA test from a child without having-- is the problem getting the DNA test or is the problem-- what is the problem?

WAYNE: Problem is getting the DNA test.

DeBOER: Yeah.

WAYNE: So the issue is a stranger can't walk into court and say test this kid, he's mine.

DeBOER: Right.

WAYNE: Even with-- in this case, there was actually an affidavit from both the father and the nurse at the hospital when the kid was born saying they were here. So, so, yeah, you can't even require the court to do a DNA test. Now, again, some courts are still doing it, but they're, they're coloring a little outside the, the lines.

DeBOER: So the problem is that you can't establish the paternity through a DNA test because you can't take the sample from the child to get the test to get it recognized. Is that right?

WAYNE: Correct.

DeBOER: OK. Thank you. Any other questions for Senator Wayne? Thank you, Senator Wayne.

WAYNE: Thank you.

DeBOER: First proponent. Is there anyone who would like to speak in favor of the bill? We'll have opponents. Anybody against the bill? Neutral capacity? Senator Wayne waives his closing and there is one letter of support and that ends LB23 and we'll return to Senator Wayne for LB391.

WAYNE: Senator Day. So nobody expected my hearing to go that fast. We'll take a recess until Senator Day comes. We'll take, let's take a five minute recess.

[BREAK]

DeBOER: Senator Day, welcome. You're welcome to open on LB391.

DAY: Thank you. I appreciate your patience. We waited 40 days and 40 nights for the elevator but we are here. Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Jen Day. That's J-e-n D-a-y, and I represent Legislative District 49 in Sarpy County. I'm here this afternoon to introduce LB391, which would send a clear message to women in our state that they do not need to fear the government that the government will prosecute them based on the outcome of their pregnancy. LB391 would do this by providing for criminal and civil immunity for any woman whose pregnancy results in any outcome that does not result in a live birth. This assurance of immunity is consistent with existing law relating to abortion in Nebraska. Section 28-328, subsection (3), Section 28-347, subsection (3), Section 28-3108, and even Section 6 of LB626 all provide that a woman shall not be subject to prosecution or be liable for violating laws relating to abortion. This bill is necessary to assure those who are pregnant but need necessary maternal care that they will not be investigated or prosecuted for miscarriages or self-attempted abortions. Women should not fear being investigated or questioned when they seek healthcare or go to the hospital. Unfortunately, this has not been the case nationwide and we have seen hundreds of cases of women being investigated and in some cases even prosecuted for pregnancy outcomes. In Louisiana, a woman who went to the hospital for unexplained vaginal bleeding was imprisoned for over a year based on charges of second degree murder before medical records revealed she had suffered a miscarriage at 11 to 15 weeks of pregnancy. In Utah, a woman gave birth to twins, one was stillborn. Healthcare providers believed that the stillbirth was the result of the woman's decision to delay having a C-section. She was arrested on charges of fetal homicide. In Iowa, a pregnant woman who fell down a flight of stairs was reported to the police after seeking help at a hospital. She was arrested for attempted fetal homicide. Each of these examples is horrifying, and most of these types of charges have been brought under laws meant to punish those for crimes against pregnant women, yet instead were turned around and used against pregnant women themselves. No Nebraska woman should have to face this kind of dystopian prosecution. However, even beyond this, there is a new urgency to pass these protections. In June of 2022, the United States Supreme Court issued its decision in *Dobbs v. Jackson Women's Health Organization*, which overturned *Roe v. Wade* and *Planned Parenthood v. Casey*, and related cases affirming the right to abortion. The *Dobbs*'s decision reversed nearly 50 years of jurisprudence that recognize a right of

people to make individual healthcare decisions, including a woman's qualified right to terminate her pregnancy. Dobbs did not outlaw abortion, Dobbs did not hold that states could not protect the right to privacy in state laws or constitutions, and Dobbs did not say that the state could not protect women from prosecution or civil suit if the state regulates abortion. There is significant confusion as to the status of abortion in this country. This confusion and misinformation is prevalent most acutely in the population who needs maternal healthcare: the young, the poor, those who are victimized. They do not understand or appreciate the discussion ranging in news and social--ranging in news and social media about abortion, abortion restrictions, and prosecutions for violating abortion law. Compounding this is the problem of many not having access to accurate healthcare information. We have already passed similar immunity provisions to encourage people to contact authorities in drug or alcohol overdose Sections in 28-472, 28-470, and 53-180.05. This bill is intended to assure people that they will not be in jeopardy if they seek medical care for complications relating to pregnancy. Passage of this bill will be an additional assurance to those who are vulnerable to some of the policies other states have implemented relating to maternal medicine and what this state seems poised to do. Women in Nebraska are scared. And still, I'm not naive about this subject. I know that reproductive rights are a topic where many people are not going to change their minds because of sincerely held beliefs grounded in personal principle and conviction. But we can all agree that we shouldn't be in a place where a woman fears that her miscarriage will lead to an investigator poking around with the questions of the circumstances, that we're not going to add layers of legal questions on top of the emotion, trauma, and hopelessness of a miscarriage. We're not going to be a state where women have to think twice about Googling where clinics and other states are for fear this will be brought against them in the courtroom. If we truly believe it when we say we're not going to punish women, LB391 should be an easy, straightforward yes vote. With that, I'm happy to answer any questions.

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

KELSEY ARENDS: Thank you. Chair Wayne and members of the Judiciary Committee, my name is Kelsey Arends, K-e-l-s-e-y A-r-e-n-d-s, and I am still the healthcare access program staff attorney at Nebraska Appleseed testifying in support of LB391 on behalf of Nebraska Appleseed. We believe that everyone should be able to access the healthcare they need in their own communities when they need it. Because this bill protects Nebraskans and their access to healthcare

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no matter the outcome of their pregnancy, Nebraska Appleseed supports this bill. Access to healthcare at every point in pregnancy is critical to overall health and well-being of pregnant people. Many health conditions and outcomes can affect pregnant people's life and well-being. One of the most critical indicators of the status of maternal health is the maternal mortality rate. Maternal mortality is worsening in the United States, and rates in the U.S. are worst among wealthy countries. Moreover, reproductive injustice based on race has long persisted in the United States. As you've already heard today, black and Indigenous people are two to four times as likely as white people to die during pregnancy or around the time of childbirth. It shouldn't be this way. About three in five pregnancy-related deaths could be prevented. Multiple strategies can address the maternal health crisis. For example, ensuring access to free or affordable primary care, comprehensive reproductive healthcare, a diversified maternal healthcare workforce covered by insurance, and comprehensive postpartum support. Protecting pregnant people from criminal or civil liability based on their pregnancy outcomes can also reduce barriers to healthcare access. Criminal or civil liability based on pregnancy outcomes erodes trust in the patient-doctor relationship and adds barriers to the pregnant person's access to healthcare. When it is unclear whether a pregnant person is likely to face legal consequences for accessing healthcare, they are less likely to seek help, seek help when they need it. Especially when there is public confusion about whether a particular action is criminal, many people will reasonably err on the side of not taking the action, chilling their access to healthcare even if there is no actual threat of criminal penalties. LB391 will make clear that no pregnant person will face civil or criminal liability for their pregnancy outcome and will, therefore, reduce these risks and encourage pregnant Nebraskans to seek the healthcare they need when they need it. Nebraska Appleseed is committed to ensuring that all Nebraskans have equitable, equitable access to healthcare services and, therefore, we support this bill and respectfully ask that you advance it.

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

KELSEY ARENDS: Thank you.

WAYNE: Next proponent. Welcome.

SCOUT RICHTERS: Thank you. Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB391. Nebraskans must have the ability to make the decisions that are best for their

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own bodies, lives, and futures. Even with Roe v. Wade in place and now in the wake of the Dobbs's decision people across the country are subjected to the criminalization of their pregnancy outcomes. Across the country, all kinds of laws that were never meant to punish people for their pregnancy outcomes have been used to charge and prosecute people as Senator, Senator Day mentioned. These include abortion bans, unauthorized practice of medicine laws, fetal harm laws, and improper disposal of human remains, just to name a few. We often hear from antiabortion politicians and activists that abortion bans are passed in order to protect pregnant people. But we know that the true goal of abortion restrictions is to prevent people from accessing the healthcare they need. It is increasingly more likely that to the contrary of being protected pregnant people have been and will continue to be at legal risk for their pregnancy outcomes and this is why passing LB391 is so important. If/When/How, a reproductive justice organization, has studied and reported on criminalization extensively and has found that the majority of instances of criminalization have involved people living in poverty and that people of color are disproportionately represented in charges and prosecutions. Another important, another important point to highlight from this report and for criminalization of pregnancy outcomes is, in general, is that the consequences of prosecution include losing custody of children, being turned over to immigration for possible deportation, the loss of jobs, having to move, just to name a few. These matters can also have impacts for people involved in the child welfare, welfare or criminal justice systems because not only can criminalization of pregnancy outcomes bring you into those systems but if a person is already involved in a criminal or child welfare case they're more likely to be criminalized for their pregnancy outcomes as they can be under surveillance, including by caseworkers, probation officers, ankle monitors, etcetera. Given the discrimination that is rampant in these types of cases, the discretion of prosecutors, police, and others who make reports and the growing threats of pregnant people in the wake of the Dobbs's decision, LB391 is vital to protect Nebraskans and prevent prosecution for pregnancy outcomes. So we thank the committee and I would be happy to answer any questions.

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

SCOUT RICHTERS: Thank you.

WAYNE: Next proponent. Welcome.

ANDI CURRY GRUBB: Thank you. Good afternoon, Chairperson Wayne and members of the Judiciary Committee. My name is Andi Curry Grubb. It's A-n-d-i C-u-r-r-y G-r-u-b-b. I'm the state executive director for Planned Parenthood North Central States and central to our mission at Planned Parenthood is the conviction that all people deserve to live in communities where sexual and reproductive rights are recognized as basic human rights. And with that in mind, we're proud to support LB391. I've, I've given you my written testimony and it's similar to things that have already been said so I'm going to let you read that on your own but I do want to make two points that have not been made. One is in regard to what Senator Day said in her opening regarding the fear and confusion and concern that folks have around pregnancy in our state is already happening. Abortion remains legal in Nebraska, and yet we are still hearing, we're already hearing, we've continued to hear since Roe was overturned the concerns that people have with how to access the care that they need. So this bill I find incredibly important now whether LB626 is passed or not. The other thing I want to make abundantly clear is that this bill protects the pregnant person and that is all, this is not a protection for anyone else except the person experiencing pregnancy from being prosecuted for outcomes of that pregnancy, whatever they may be. With all of those things in mind and the other things that I have written, I would encourage the committee to advance LB391.

DeBOER: Thank you. Are there any questions for this testifier? I don't see any. Thank you for being here. Next proponent. Is there anyone else who would like to testify in favor of this bill? Then we'll go to opponents. Is there anyone who would like to testify in opposition to this bill? Neutral capacity. Anyone in the neutral? While Senator Day is coming up for her close, I'll tell you that there were 72 letters for the record: 53 were in support, 19 in opposition. Senator Day, you're welcome to close on LB391.

DAY: I will make my closing very brief, but I think if we continue to have conversations about restricting access to reproductive healthcare, whatever that means, we have to make sure that we have protections in place for people who can become pregnant. And if we want to outlaw abortion or if we want to outlaw specific types of procedures, then as senators we have the right to do that. But if we want to continue to say that the abortion bans or restricting certain types of procedures is not about prosecuting women and sending them to prison or investigating them for pregnancy outcomes, then we absolutely have to have something like this in place to make sure that we are protecting people who can become pregnant. I'm happy to answer any questions.

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

DAY: Thank you.

DeBOER: That will close the hearing on LB391 and open the hearing on LR20CA. Senator Conrad, you're welcome to open on your LR.

CONRAD: Hello. Good afternoon, Vice Chair DeBoer, members of the committee. My name is Danielle Conrad. It's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today representing north Lincoln's Fighting 46th Legislative District and I'm proud to introduce LR20CA. Side note: the first measure that I had before, set for hearing in this legislative session was before the esteemed Judiciary Committee and this is my last bill that I'll be opening on this session before the esteemed Judiciary Committee so what a nice bookend to, to my committee activity in 2023. And thank you all for your time and attention to so many important matters, but for your time and attention in regards to this matter today as well. Let me be clear, this measure would simply let the people of Nebraska vote on adding a specific right to privacy in our state constitution. A similar right to privacy is found in many of our sister states' state constitutions. And the proposal is mirrored after those constitutional provisions in our sister states, many of which have very similar history and political dynamics as we have in place in Nebraska. And let me tell you what I think is really important about establishing a specific individual right to privacy. An individual right to privacy has been found and has been well-established as part of our common law, as part of our state statutory schemes, as part of our state constitutional and federal constitutional provisions and subsequent court decisions detailing what those substantive protections mean for Americans. And this is something that I think is just inextricably intertwined with who we are as Americans. We value, hold dear, and we require a right to be left alone, particularly from a tyrannical government. And we've seen this issue play out in many instances, marriage, the protection and fundamental rights surrounding family and child rearing, education, government censorship, and it also extends to reproductive rights and LGBTQ rights and police practices and mass surveillance as well. So I think that it's very important that Nebraska voters have an opportunity to weigh-in on this measure. There's no fiscal note. It encompasses a variety of key concepts and issues to provide better and clearer protections for individual rights, liberties, and freedom against government overreach. So I'm happy to answer any questions and I'm looking forward to the testimony today.

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DeBOER: Are there any questions? Senator Geist.

CONRAD: Yes.

GEIST: So if it encompasses all of that--

CONRAD: It does.

GEIST: --how would the voter know exactly what they're voting for?

CONRAD: Yes, I have great confidence in, in the voters of Nebraska to make intelligent decisions about what's on their ballot. And I think Nebraska voters know very clearly what a right to privacy does mean for them in their family. It means the right to be left alone.

GEIST: But do you think that the average voter, and not impugning their intelligence at all, would understand the extent of what you just outlined it means from the entirety of what you just said?

CONRAD: Yes, I do, because I think that the average Nebraska voter is an average Nebraskan who recognizes and understands that government shouldn't be nosing around in the most private, intimate aspects of our life when it comes to how we raise our children, when it comes to our relationship with our spouse, when it comes to the type of information that we read, when it comes to overreach by police practices of mass surveillance, when it comes to matters of reproductive rights, when it comes to matters of intimate relations, yes, I think Nebraskans absolutely understand that government shouldn't be over involved in the intimate aspects of our lives. I think--

GEIST: I'm, I'm not questioning that whether they would think that, I'm just questioning whether if saying that this is an individual right to privacy, because it has to be very specific on the ballot, if they understand in saying that that encompasses that huge list that you just said. I'm not sure everybody's going to think that without having a big education process to say here is what that all means and that's my question.

CONRAD: Yeah, I mean, that's part of why we're building a record today, right? It would be part of the legislative history if this measure is referred to the people for a vote and it would become a part of our constitution. It would also be part of a campaign. Like any constitutional matter that is referred for the vote of the people would be by parties on all different sides of the issues to say vote yes on this because of X, Y and Z or vote no on this because of X, Y,

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and Z. That would absolutely be a part of the process, I think. And I think what's also important to note, Senator, is two things. We don't actually have to do a lot of guesswork about this because, again, we have clear examples and I think at least ten of our sister states that have a specific right to privacy so that we, we really know what we're talking about and it touches upon those different areas of private life, which I've, I've already mentioned. The other thing is, is I would just point the specific text of the language isn't an absolute right to privacy. It allows for an infringement when there is a compelling government interest.

GEIST: OK.

DeBOER: Thank you, Senator Geist. Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. Thank you for bringing this in. I have to be honest and tell you that we were bombarded with emails that all said the exact same thing.

CONRAD: OK.

BLOOD: And I think that there is a disconnect in the fact that people are being encouraged to say that there's not enough language in this to, to be understood.

CONRAD: Oh, OK.

BLOOD: So the question that I have-- I'm just letting you know where I'm coming from.

CONRAD: That's helpful because nobody had shared those emails with me.

BLOOD: Yeah, nobody ever answered my questions I'd like to point out. I'm like, well, what about the language do you not like? So when you talk about, I think it was the word compelling-- help me out here--

CONRAD: Yes.

BLOOD: --compelling state interest.

CONRAD: Um-hum.

BLOOD: Doesn't that mean that it's essential or necessary instead of, like, it's a choice or a preference or discretion? That's what it means legally and why it's used in an LR because that's something that you would do in any state when describing something like that. Would

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you say that that language is consistent with what an expectation-- consistent with our expectation of what we would see in a legislative resolution at any state of this going on the ballot containing something like this?

CONRAD: Yeah, absolutely. Thank you, Senator Blood. And, you know, the, the first piece I'll just be clear about is that it, it is very brief in design.

BLOOD: Right.

CONRAD: Right? It is a very straightforward concept. People have a right to be free of government overreach in their private affairs period.

BLOOD: And, and individual privacy.

CONRAD: And individual privacy.

BLOOD: We're talking about individual privacy.

CONRAD: And individual privacy.

BLOOD: That's the clarification that, that would be my comprehension. And hearing what you've heard about the emails, would that be your comprehension that people are trying to expand it beyond individual privacy? They're saying, oh, privacy, what does that mean? Does that mean what happens behind closed doors or does that means what happens in public? It's more, even more narrow and that's more what happens to you. Right?

CONRAD: Yeah, and again, I, I haven't seen, I don't know of some interest group sent out an email blast or something and now that's being parodied as part of the committee hearing today. But that's OK, I welcome all questions to the debate. The measure itself was drawn upon an almost identical measure in the Montana Constitution, almost verbatim. So we have a good understanding and track record of how that has been applied in a sister state with a very similar political landscape and then--

BLOOD: When was that done in Montana?

CONRAD: Perhaps at founding. I'll go back and double check to see when it was adopted, but I, I believe that it's been on the books for decades, if not hundreds of years. I'll, I'll go, I can go back and double check on that. The other piece, Senator Blood, to your question

is you're absolutely right where it is not an unfettered right to privacy, it is a right to personal privacy that can only be infringed if there's a compelling government interest.

BLOOD: Right.

CONRAD: So this is the well-established, long-established legal framework for fundamental individual rights, just like free speech. Let's think about it in a free speech context, right? We have the right to free speech, free expression association, the right to petition your government. Congress shall make no law, right? Even that is not absolute. Government, of course, passes laws all the time, and they're only permissible if they're content neutral, things like time, manner, or place restrictions. Right? So the only way that the government can infringe upon a fundamental right is if there's a compelling state interest, for example. Right? So it's not anything goes any time, individual freedom. If there's a well-established, clear, compelling interest, then government can infringe upon the individual right to privacy. Many--

BLOOD: So essential or necessary.

CONRAD: That's right.

BLOOD: I don't mean to talk over you.

CONRAD: Yeah, it's a high bar. Yeah.

DeBOER: Thank you, Senator Blood. Other questions? Senator Conrad, what is the process for this LR going forward? So if we were to put it out of committee, then what would the next step be?

CONRAD: So Nebraska, not all states have initiative and referendum. Nebraska's I think one of about 20-ish that have different forms of initiative and referendum. In Nebraska, we have, you know, of course, the, the citizen initiative's right to proactive initiative and referendum. We also have the ability to do a citizen referral or a CA that's referred by the Legislature to the people. So if advanced from committee and works its way through three rounds of the debate, it does not go to the Governor's Office. It goes to the people for an up or down vote. It takes 30 votes to get there so it's a heightened standard. And then it would, if it passed through the Legislature, three rounds of debate with 30 votes on Final, then it would go to the next general election ballot automatically and the people would have the right to say this is a good idea or a bad idea to put this into our state constitution.

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DeBOER: So then regarding the concern about potential vagueness in the language, I mean, what safeguards are, are there against the noneducation of the voter in Nebraska with respect to candidates or referendum or anything like that? I mean, how would this be different than voting for, say, a candidate that you don't have information about but a first and last name on the ballot?

CONRAD: Yeah, I think that's a fair point. So a couple of things. So one, we don't really get to things like legislative history if the words on their face are clear, which here I believe that they are. I don't believe that they are vague or unclear. So I think that's where you would stop your inquiry in regards to this matter. If, for example, at some point a court were to find that the language itself as adopted by the people was somehow ambiguous or vague, then you would default to the legislative history to ascertain the meaning. The legislative history in regards to a referred CA would be this process and the campaign process. You'll note that any time that we have ballot initiatives before the people, we have a variety of different mechanisms that help to inform the vote. We have ballot title language written by the Attorney General. We have congressional hearings in each congressional district. We have a pamphlet put forward by opponents and proponents that provide additional context to the vote. That all becomes part of the legislative history in initiative and referendum.

DeBOER: OK. Thank you. Are there other questions? Thank you, Senator Conrad.

CONRAD: Thank you.

DeBOER: First proponent.

SPIKE EICKHOLT: Good afternoon, 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 in support of the proposed legislative resolution. You've got a copy of my testimony. I think what Senator Conrad intends with this, as she explains, is that this is to provide for a referendum question or a question to the voters as to whether they'd like to have a, an established right of privacy in our state constitution. If you look at my testimony, I talk about one component of the individual right, and that is the right for reproductive freedom. But I think if you kind of remember some of the bills that you heard earlier today and some of the issues-- or today, this session I should say and some of the other issues, I think what Senator Conrad explains is right, that there is sort of a growing

sense or at least a sense among the people of the state that government should be out of our lives and you see it in a variety of different ways. Remember that bill that we had dealing with license plates, license plate reader systems that would provide for companies to collect and harvest data that was, that was by, that's obtained by people sort of driving through the city. I don't know if we heard any antimasks or any antivaccine bills, but you saw some of those bills introduced and heard in other committees. These things are coming up organically throughout the state. And then, of course, another sort of concept of individual, individual privacy is the right to reproductive freedom. Senator Day's bill that we heard earlier today talked about the history of Dobbs reversing about 50 years of precedent in the state. And what Dobbs said, as Senator Day explained, was that there is not an individual right of privacy in our federal constitution that provides for the right to abortion. Now other states have interpreted their constitution to provide for a right to privacy, or at least an individual right to abortion. And some of those states include Alaska, Arizona, California, Florida, Kansas, Massachusetts, Minnesota, Montana, New Jersey, and New Mexico. So we do have a general right of privacy already in our state constitution, but our courts have never interpreted that to be anything broader than what the federal right of privacy provides. A couple of states have interpreted their constitutional rights to equal protection to provide for a right of autonomy to make healthcare decisions and included in that would be New Mexico as an example of that state. But I think what Senator Conrad has got here proposed would put this issue back to the voters, if you will, and let them decide whether in our constitution there is an individual right of privacy that could include something like reproductive freedom and other rights. I think if you look at some of the polling data that I cite, not only from the ACLU of Nebraska, but also from the Holland Children's Movement, people generally are consistent in Nebraska when they said that they do not want government controlling their healthcare decisions and the right to make decisions with respect to whether to become a parent. And I think this issue should go before the voters. I'll answer any questions if the committee has any.

DeBOER: Are there any questions? Senator Geist.

GEIST: I'm curious as I read your testimony and would this let-- let's say this goes to the ballot, this passes, lifts all restrictions on abortion. Would this lift all restrictions on abortion?

SPIKE EICKHOLT: I don't think so because, as Senator Conrad explained before what this provides for, if the state can show a compelling

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state interest then restrictions can be imposed. And that's similar to some of the language that you saw in the Roe v. Wade decision and the Planned Parenthood v. Casey, where you have sort of a balancing of, of issues where the courts recognize that the states did have a right to protect viable fetus, like for instance, or they did have a right to protect and provide for some regulation during some terms of the pregnancy.

GEIST: So would that have to be put in statute or would it reflect what's already in statute or how would that work? How, how if, if this-- if there is a right to privacy and a right to-- I was going to say-- or a recognized right to abortion and healthcare, has the state's guarantee of equal protection of the law, then how specifically after this would pass on a ballot initiative, how would there be in any other way a restriction?

SPIKE EICKHOLT: I think if, if I under--

GEIST: Would that be statutory or would--

SPIKE EICKHOLT: I think--

GEIST: --it-- go ahead.

SPIKE EICKHOLT: No, I'm sorry. I don't mean to interrupt.

GEIST: No, go ahead.

SPIKE EICKHOLT: If the voters approved this and this would be an individual protection in our constitutional Bill of Rights that would provide people with the right of individual privacy. The state could still have some authority to regulate that right, as Senator Conrad explained, just like they have on any other sort of right that we already have.

GEIST: Under the, and just so I understand, under the compelling state interest? And so-- I, I hate not being an attorney so I can, like, figure all this out like you guys.

SPIKE EICKHOLT: Well, it's not much of a day at the beach for me either I'll tell you, so.

GEIST: But, but I, I don't-- I guess then who stands up for the of what compelling interest is argued for the, the unborn child at that point?

SPIKE EICKHOLT: Well, that would be something that the voter or the representatives could still pass laws on. For instance, we already have a pretty broad right to possessing a firearm in Nebraska. We have a couple constitutional references. It's the very first Article I, Section 1. But we have all kinds of laws on our books restricting the right to possess firearms, if you're convicted of a felony, if you're convicted of a domestic violence offense, that kind of thing. Similarly-- and again, I can't speak for what Senator Conrad necessarily means with, with this proposed amendment, but if it was to be adopted by the voters that would not preclude the Legislature of Nebraska from passing laws regulating abortion so long as the state could show a compelling state interest in doing so.

GEIST: OK. All right. Thanks.

DeBOER: Thank you, Senator Geist. Other questions? So, Mr. Eickholt, if this were to pass then ostensibly figuring out some of these, the, the rules around the right to privacy would be a judicial-- I mean, we could pass statutes.

SPIKE EICKHOLT: Right.

DeBOER: I think this is maybe what Senator Geist was asking about, we could pass statutes and then they would either meet the judicial scrutiny of a compelling state interest or they wouldn't.

SPIKE EICKHOLT: Right.

DeBOER: But the judicial process would be to go through it or there would be sort of a common law question about whether or not already existing or future existing concepts would be within the constitutional provisions just like any constitutional provision that is preexisting. Right?

SPIKE EICKHOLT: Right.

DeBOER: Is there any difference between a preexisting constitutional provision and a latter existing constitutional provision?

SPIKE EICKHOLT: I think, I think a court-- I think Nebraska courts would likely interpret-- if the voters approve this, they would likely not just review it and decide it was just surplus language. I think they would have some recognition or recognize that the voters meant to do something with doing this. I don't think the world will come to an end. If you look at Article I, Section 3 of our constitution, there's a phrase that was added in 1997, quote, Nor be denied equal protection

of the laws, end quote. We adopted in 1997 a constitutional amendment in our constitution to provide for equal protection of the laws. There were some litigation after that that was going to provide for some sort of super equal protection that was greater than federal. And of course, we really didn't read that in there. The courts in Nebraska, I think, were pretty modest in overly interpreting provisions in our constitution that usually follow the federal constitution scope of protections with the individual rights and what other states generally do. I don't know if that was responsive to your question necessarily.

DeBOER: No, it is, it is. So the, the sort of two ways in which this would get meted out as to how it really applies would be, one, through whatever statutory provisions that we all put in place or whoever was in the Legislature at the time put into place. And then also whatever the, the courts determined we meant by the provisions that then were adopted by the voters and so then they meant by them so--

SPIKE EICKHOLT: That's right.

DeBOER: --it would be both through the judicial process and through the statutory process.

SPIKE EICKHOLT: That's right. And it would be, if I could just supplement, it would be interactive. If the voters approved this and the Legislature wanted to, to amend a law to provide for some sort of abortion regulation, the Legislature could always just reference this. That's exactly what Senator McKinney did earlier this year on one of his prison bills was reference a provision in our constitution set pursuant to Article something, Section whatever, the Legislature declares as follows. So it's, it's not--

DeBOER: It wouldn't provide something that the Legislature or the courts together didn't want. It would, it would allow the, the people to instruct the courts and the Legislature of the kind of thing that they wanted and then it would be up for the court to determine whether we went too far as a Legislature.

SPIKE EICKHOLT: That's right.

DeBOER: OK. All right. That's all the questions I have. Are there other questions?

WAYNE: Questions from the committee? Seeing none, all right. Next opponent.

DeBOER: Proponent.

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WAYNE: Proponent. Sorry, I thought Senator Conrad was bringing a new penalty and Spike [INAUDIBLE]. Hello.

KELSEY ARENDS: Chair Wayne and members of the Judiciary Committee, my name is Kelsey Arends, K-e-l-s-e-y A-r-e-n-d-s, and I'm the healthcare access program staff attorney at Nebraska Appleseed. So we came at this bill from a healthcare perspective as well. Because this resolution will protect Nebraskans' right to privacy in many important areas, including in their healthcare, Nebraska Appleseed supports this resolution. State Supreme Courts in other states have interpreted the right to privacy in their state constitutions to protect things like access to abortion. Access to reproductive healthcare services is a critical part of overall health and well-being. Research shows that protecting the right to reproductive freedom reduces childhood poverty and increases the likelihood of educational attainment. Conversely, restrictions on access to reproductive services, including abortion services, have detrimental and disproportionate impacts on those experiencing poverty and perpetuates generational poverty. Being denied an abortion quadruples the odds that a new parent and the child will live below the federal poverty line and public assistance programs are not sufficient to recover from the cost of a new baby. I'll go ahead and keep my testimony short and leave the rest for you to read. But because Nebraska Appleseed is committed to ensuring that all Nebraskans have equitable access to healthcare services, we urge your support of this resolution.

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

DeKAY: Thank you. What is the difference between this right to privacy now and existing HIPAA laws that are in place already?

KELSEY ARENDS: That's a great question. So HIPAA, my understanding of HIPAA is that it applies just to health entities. So covered entities are required to keep patient information private. This right to privacy, number one, would be much broader just in all the different areas of and different rights that it would protect, as Senator Conrad explained. But in the healthcare space, too, would, would protect an individual's right to privacy more broadly than just for protected health information in the healthcare entity setting.

DeKAY: Thank you.

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

KELSEY ARENDS: Thank you.

WAYNE: Next proponent. Next proponent. All righty. First opponent.
Welcome back.

MARION MINER: Thank you very much. Excuse me. Good afternoon, Senator Wayne and-- Chair Wayne and members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r. I'm associate director of pro-life and family policy for the Nebraska Catholic Conference. The conference opposes LR20CA, which was introduced on January 11 of this year, the same day that there was a press conference to announce the introduction of what would become LB626, the Nebraska Heartbeat Act. LR20CA seems to clearly be a response to that announcement, it's meant to insert a right to abortion in the Nebraska Constitution. When *Roe v. Wade* was passed down to the U.S. Supreme Court in 1973, the basis for a supposed right to abortion in the U.S. Constitution was what the court deemed an individual right to privacy. That was the basis on, under which they found a right to abortion. The same right LR20CA would insert into our constitution. Courts in other states, by the way, have used the right to privacy to find or advocates have used the right to privacy, the existence of a right to an explicit right to privacy in their state constitutions to argue for a right to abortion in their state constitutions. The court in *Roe* held that this right to privacy included a right to elective termination of pregnancy, which had the effect of invalidating the laws protecting human life in all 50 states across the United States, despite the wills of their state legislatures. This right to abortion, in the court's view at the time, meant that protecting a baby's life was not a compelling enough reason to warrant any restriction on abortion at all until after the first trimester. Before the end of the first trimester, babies are known by the science of embryology to develop a face, fingers, toes, and a beating heart. Abortions, however, under *Roe* were to proceed, quote, free of interference by the state, close quote. According to *Roe*, during the second trimester, about 12 to 28 weeks into pregnancy, states could regulate the practice of abortion to the extent their laws were reasonably related to protecting maternal health, but not to protect the lives of preborn children. After the point of fetal viability considered at that time to be about 28 weeks, the court held that the state's interest protecting human life became compelling and that the state could enact laws that had as their purpose the protection of human life from abortion. Even those laws are subjected to a skeptical eye by the courts to be disregarded if any doctor asserted any factor of a woman's health to include, quote, physical, emotional, psychological, familial-- meaning family size or income, or the woman's age, close quote, would be negatively impacted without an

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abortion. The result was a near-total right to abortion through all nine months of pregnancy. That's the history that we have to keep in mind when we're talking about inserting a right to privacy in the Nebraska Constitution. That's how it was interpreted by the courts in Roe v, Wade. And I see I'm out of time, I did have more to say but I will end there.

WAYNE: Thank you. Any other [SIC] questions? Senator Geist.

GEIST: Thank you. I think that the-- so the compelling state interest doesn't really, according to what you said, doesn't begin till about 28 weeks but could extend all the way to the end under different provisions. Is that--

MARION MINER: So it, it, it depends on how a particular court interprets that. So what is compelling enough? What type of state interest is compelling enough to override the general constitutional right and a compelling interest is essentially is just about the highest bar that you have to clear to show. In this circumstance, the state has the right to intervene. So when we're talking about the state having an interest in protecting preborn human life, our history shows in interpreting Roe and its follow-up cases that essentially the state has no right at all to intervene until 28 weeks, essentially. Now in Nebraska in 2010, in just in 2010, I mean, this is pretty recent still, but in 2010, Nebraska passed its 20-week law, which at that time was considered extremely bold because it really cut directly against what Roe and Casey had established. And it was trying to establish a new compelling interest to show that babies feel pain at that point in pregnancy and that, therefore, the court should take that into account as potentially compelling interest.

GEIST: Is viability a compelling state interest?

MARION MINER: That was the, that was the judgment of Roe and reaffirmed by Casey. They said viability is the point where the state's interest in protecting human life becomes compelling.

GEIST: But isn't that getting lower and lower?

MARION MINER: Sure. So at that time, it was considered to be about 28 weeks. It's more common now for babies to survive. They're born at 26, 24 weeks, even a little bit earlier sometimes. So it is kind of a moving target. Excuse me. But the fact remains, our history shows in, in the Roe and Casey abortion context that essentially you've got an almost unlimited right to abortion up to at least fetal viability. And

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if you can find a doctor that says that, well, your family's too big or your income is too low, that relates to your maternal health, therefore that becomes the exception as well as the rule and it becomes an unlimited right to abortion. That's the history that, that has been around a similar conversation of Roe and Casey at the federal level.

GEIST: Thank you.

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

MARION MINER: Thank you.

WAYNE: Next opponent.

NATE GRASZ: Good afternoon, Chairman Wayne and members of the committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z. I'm the policy director for the Nebraska Family Alliance and I'm testifying in opposition to LR20CA on their behalf. This proposal seeks to provide a pathway for establishing a right to privacy in the Nebraska Constitution. While the statement of intent was matters such as free speech and government surveillance for why this is necessary is not lost on us, nor should it be lost on the committee that the U.S. Supreme Court used a right to privacy as the basis for their ruling in Roe v. Wade, as Mr. Miner talked about, which legalized abortion through all nine months of pregnancy. Creating a right to privacy in our state constitution is another way of creating a right to abortion and could be used to allow babies who are fully formed and can smile, yawn, and feel pain to be aborted for any reason. In the 50 years since Roe was decided, science and technology have advanced dramatically. We can see clearly in 3D and 4D ultrasounds that an unborn child in the womb is not just a clump of cells or a blob of tissue, but an individual human being with their own unique DNA deserving of love and protection and the right to live. Nebraska Revised Statute 28-325 states that the will of the people of Nebraska is to provide protection for the life of the unborn child whenever possible. With Roe now overturned, rather than seeking to create a new right to abortion in our state constitution, the state should seek to provide greater protection to the lives of baby girls and boys in our state. We urge the committee to support our most important and fundamental rights, the right to life and not advance LR20CA. Thank you.

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WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next opponent. Next opponent. Seeing none, anybody-- you can fill it out when you get done.

SCOTT THOMAS: Apologize for that.

WAYNE: Welcome.

SCOTT THOMAS: My name is Scott Thomas, S-c-o-t-t T-h-o-m-a-s, Village In Progress.

WAYNE: Speak up just a little bit.

SCOTT THOMAS: OK. S-c-o-t-t T-h-o-m-a-s, Village In Progress. I'm going to oppose this on the grounds of Article III of the 1948 UDHR that protects life. And, and I'd say, like, as a father, too, I got an 11-year-old girl and so people when they talk about abortion they ask would you want your daughter's rights to this and that protected for her? I got to be honest, man, like, she learned in kindergarten because they had a salad bar in the school that she went to, she went to a private school, and, and her teacher would instructor her that when you finish your tray you can go up and you can get something off the salad bar that's a choice. You make a choice, you pick something, you eat it. And so she knows about making choices, like, even at a young age. So I think, you know, we make certain choices. And I, I think like, also, like, I said, you know, my mother made choices so I wouldn't be here. Was it Ronald Reagan that said that everybody is for abortion who's already been born? So like I said, I got to come down as a parent and as a human rights consultant on the side of life on that one. Any questions from the senators?

WAYNE: Any questions? Senator Blood.

BLOOD: Thank you, Chair. I'm not sure, can you better explain to me why you feel the way you feel about this bill?

SCOTT THOMAS: I believe that it violates Article III of the 1948 UDHR.

BLOOD: In what fashion?

SCOTT THOMAS: Because it violates the right to life.

BLOOD: How does it violate the right to life?

SCOTT THOMAS: OK, so 75 years ago following the war to end all wars, a bunch of people came together to determine 30 enumerated human rights

chaired by our first lady, then Eleanor Roosevelt, and in these 30 enumerated protected human rights by international treaty Article III is the one that's assigned to protect life.

BLOOD: But wouldn't you say that privacy is also a civil right, one that has excluded brown and black people, people with disabilities, immigrants?

SCOTT THOMAS: I would look at civil rights as an issue of determinants for government, and I think that human rights supersede those. Human rights would be, like, what you're endowed with while you're--

BLOOD: I'm sorry, I'm having trouble hearing you in here.

SCOTT THOMAS: I said I think that human rights are separate from civil rights. I would perceive that as an issue for governance, and I would look at human rights as the rights that you're endowed with by your creator inherent to your inhuman-- excuse me, inherent to your humanity.

BLOOD: But what I'm talking about, we're talking about privacy rights. You don't believe that privacy is a civil right? It's not a trick question. I'm, like, really trying to, to clarify.

SCOTT THOMAS: I'm trying to needle it out. I'm trying to follow where you're going with it, but. OK, so--

BLOOD: Like, you have the right to determine what information is collected about you. Do you feel like you should have that right?

SCOTT THOMAS: Fair enough. Depends on what the information is, right, so we, we talked earlier about-- or I heard a reference to compelling state interests and I'd say like the fact that we are having issues with our repopulation rate which will affect our GDP which will affect our Social Security programs and all subsequent programming. I mean, we have issues that threaten our economic stability as a country and those could be rooted in the Roe v. Wade decision according to-- like, Mother Teresa filed an amicus brief with the Supreme Court and that's what she said that this decision has pitted the interests of the mother against the child. It's not necessarily productive for society.

BLOOD: So I think that maybe the disconnect for us is that you're talking specifically about abortion.

SCOTT THOMAS: Protecting-- yeah, specifically talking about protecting the right to life.

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BLOOD: And this is-- and you're encompassing the bill.

SCOTT THOMAS: And there's, and there's other things contained in the bill. I understand that. Yes, ma'am. I apologize for that.

BLOOD: No, don't apologize.

SCOTT THOMAS: OK.

BLOOD: I've just been trying to clarify and learn better what you're thinking. So I appreciate you [INAUDIBLE].

SCOTT THOMAS: OK. I hadn't intended to testify--

BLOOD: No, that's all right.

SCOTT THOMAS: --fill out a green sheet or anything like that, it was just kind of compelling what I heard said.

BLOOD: I'm going to be asking the presenter-- did she leave?

WAYNE: No, she's right there.

BLOOD: I'm going to be asking her the same question, so.

SCOTT THOMAS: OK.

BLOOD: Thank you.

SCOTT THOMAS: I apologize if I wasn't clear on that.

BLOOD: Don't apologize, thanks for coming in.

SCOTT THOMAS: All right. Yeah. Good day. Anything else?

WAYNE: Just make sure you fill out the blue [INAUDIBLE].

SCOTT THOMAS: OK.

WAYNE: Thank you for being here.

SCOTT THOMAS: Appreciate it.

WAYNE: Next opponent. Anybody testifying in the neutral capacity? Neutral capacity? As Senator Conrad comes up to close we had 63 letters: 48 in support and 15 in opposition. Senator Conrad.

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CONRAD: Thank you so much, Chairman Wayne. Thank you, members of the committee for your time, consideration, and good questions. Let me just put a fine point on it, on it. I absolutely respect the right of the Catholic Church to live out their authentically held religious beliefs and to participate in this process. However, I do not believe that their individual religious beliefs should set the course for policy for all in Nebraska. I respect their right for them to hold their beliefs. I respect the right for them to participate in this process. I'm grateful that they take up a variety of different issues. But let me be clear, my impetus in bringing forward this legislation is to push back against that kind of government overreach and that kind of theocracy that's been put forth by that kind of advocacy. Government under the guise of religion or otherwise does not belong in our bedrooms. It does not belong in our doctor's office. It should not be keeping watchful tabs on what we pick up from the library or what we research online or the intimate relationship we have with our life partners. It should not get to dictate how I raise my children in my home. We should get out in front of the ever-creeping grasp of technologies involved in mass surveillance and other ways that infringe upon our right to individual personal privacy. We can absolutely have different beliefs about the role of government but mine is fairly libertarian. Individual rights and freedom and liberty should take the lead not government overreach. Happy to answer any questions.

WAYNE: Senator Blood.

BLOOD: Thank you, Chair. Senator Conrad, you heard me ask, I was trying--

CONRAD: I was, I was hearing most of it.

BLOOD: It's so hard to hear in here.

CONRAD: I wasn't hearing all of it so if you--

BLOOD: OK.

CONRAD: --if I could ask perhaps for a repetition just to make sure I have it right. I, I heard a discussion perhaps between the difference in civil rights and human rights.

BLOOD: No.

CONRAD: OK.

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BLOOD: That was the implication on the other end.

CONRAD: OK.

BLOOD: And I'm going to try and read my messy handwriting because I've written some notes down when Spike was talking.

CONRAD: OK.

BLOOD: So it's kind of a multipart question.

CONRAD: OK.

BLOOD: So the first part is, do you believe that privacy is a civil right? And the reason I say that is that we know that in our-- can you hear me OK-- in our black and brown communities and people with disabilities and our migrants and immigrants and others that discrimination has continued to be brought forward through, like, commercial data--

CONRAD: Yeah.

BLOOD: --and surveillance practices, which is the thing that Spike made go in my head and I blame him by the way. Do you feel that we have the right to determine what information is collected on us and, and how it's stored and how it's used? I keep seeing these, these bills that are talking about technology that show me personally they don't have a clear understanding of how technology works, for starters, and they want to come to this committee and say we want to give people more time for doing crimes that are already in the state statute and, and I feel that-- I am getting to questions [INAUDIBLE].

CONRAD: No, no, it's helpful.

BLOOD: And I feel like-- I'm on a roll-- I feel like if we can put this into the Constitution then we have the foundation to get smarter policy when it comes to things like surveillance and commercial data.

CONRAD: Yes.

BLOOD: I mean, I always think back to when people were, like, I can't believe Facebook is, is selling our data. It's like how did you think they pay for it, dummy? You know, I mean,--

CONRAD: Right. Right.

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BLOOD: --like, come on. So those are the questions I have for you so privacy is a civil right--

CONRAD: Yes,--

BLOOD: --and--

CONRAD: --should be.

BLOOD: --you feel people have the rights to, to, to know what's being done with their information and the surveillance and do you feel it would be a good foundation for future legislation?

CONRAD: I think the answers are yes, yes, and yes.

BLOOD: All right, that was too easy. Why, though?

CONRAD: Why, though?

BLOOD: Yes.

CONRAD: Because I, I think it goes, again, kind of to our fundamental understanding of human nature that we have a right to be free from government overreach. We have the right to be free in our homes, in our persons, in our papers, in our thoughts. We have the right to be free in those things. And those rights should only be infringed by the government when there's a compelling governmental interest.

BLOOD: Thank you.

CONRAD: Yes. Thank you.

WAYNE: Any other questions from the committee?

CONRAD: Thank you, Senators.

WAYNE: Senator DeKay.

CONRAD: Oh, I was almost out of the seat.

DeKAY: I don't think there's anybody in here that's going to disagree that we have the right to have our privacy in some aspects but where does this go where our rights to privacy and government overreach infringes on the rights of others that might not, might not be protected by those same rights in the privacy of their homes or wherever?

CONRAD: Sure. Thank, thank, Senator DeKay. And I think, for example, when you look at the legal history and landscape around the right to privacy, it's not absolute. Right? You don't get to say I'm going to commit child abuse in my home, but it's covered by a right to privacy. We, we-- it, it doesn't get to be weaponized that way because there's a compelling government interest to protect the vulnerable children, right, and that comes into play a lot of different ways. So no fundamental right has ever been interpreted to be absolute including the First Amendment, right, which is first. So there's always kind of a, a legal framework that we work within to determine what's permissible in terms of government intervention dependent upon how highly regarded the individual right is. And if it is highly regarded fundamental individual rights, the government has to meet the highest standard compelling government interest. If it's something lesser, the government only needs to make a rational basis showing for regulating in that regard.

DeKAY: With that-- with the rights, where does that, you know, with the child or whoever involved in this, how does, how does this right-- so it doesn't-- people that can't speak for themselves, how does this help them? And is this a resolution-- in that regard, is it a little bit too broad where, where we're trying to go with this to protect the rights of individuals, but, and not be excluding people that don't have the right to speak for themselves?

CONRAD: Yeah, I appreciate that. Thank you, Senator. And again, I, I don't think that there's really anything vague about this. I think that there is an example from I think at least ten of our sister states that have similar constitutional provisions that talk about how a similar right has been interpreted in their provisions. I think, additionally, when you look at, like, some of the best known cases when it comes to the right of privacy being found either in our common law or statutes or state or federal constitutions specifically or on the numbers therefrom, it's things like the right to raise your children, the right to choose their course of religious belief and participation, the right to decide how you and your family interact with the school system, the right to utilize family planning services, and the right to marry. And we saw, for example, in the Dobbs's decision and there was a clear concurrence from, from Justice Thomas which stated very clearly that he thinks that entire body of case law, including the right to protection for family planning, for marriage, even the criminalization of intimate acts by partners of the same sex should be revisited by the courts. He was very, very clear about overturning potentially those kinds of precedents which have defined our private life for decades and I think that should be a huge, scary

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wake-up call to people. And this measure would directly address this and say yes, people have the right to use family planning services; yes, people have the right to marry their partner; yes, people have the right to engage in consensual sexual acts when they're adults with their partner, with their partner of the same sex; yes, parents have the right to decide the educational and religious upbringing of their family. Now if any of those acts were to hurt other people, including the voiceless, then that's when that compelling government interest standard comes in and the entire rest of the framework of laws that we have available in Nebraska.

DeKAY: So if you were when you're talking about family planning would that include everything from contraception, abstinence, and abortion or--

CONRAD: Yes. Yeah, absolutely, because I think it would be absolutely wrong for government to dictate when and if and how a family decides to start or expand a family. Those decisions should belong to the family. So if a family decides to not have a family, to utilize natural family planning, to utilize family planning services, I think that those, those decisions should belong to the family. Absolutely.

DeKAY: Thank you.

WAYNE: Senator Blood.

BLOOD: Thank you, Chair Wayne. Just two quick, quick questions hearing this conversation. Isn't religion-- I have two questions. Isn't religion covered under the Fourth Amendment? And isn't things like our personal business like contraception, that's a medical so that would be HIPAA? I mean, I just want to say we're not going too far off into the weeds saying that this bill is going to change anything that's already protected.

CONRAD: Yeah, so there's absolutely a right to free exercise of religion--

BLOOD: Right.

CONRAD: --and there's a right to also to ensure that government doesn't infringe upon religion so you have actually kind of dueling rights in terms of what we commonly call freedom of religion. Right? So nothing would be disturbed about those, those rights to worship and worship free from government interference if this measure were to be adopted. And when it comes to things like medical privacy, yes, HIPAA is absolutely in place. This measure would not change that. It really

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goes into the disclosure of certain aspects of medical records when those, when that information can be disclosed and to who and how, that's really kind of what HIPAA seeks to, to regulate. But at the heart of HIPAA is really a lot of what's at the heart of this measure is the right to privacy, is the right to ensure that private medical information isn't just distributed kind of willy-nilly because it's personal and so it should have incredible safeguards around it.

BLOOD: Thank you.

CONRAD: Yes.

WAYNE: Any other questions?

CONRAD: Thank you so much.

WAYNE: Thank you. And that will close the hearing on LB-- LR20CA and today's hearings.