voices for children IN NEBRASKA
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To: Members of the Judiciary Committee

From: Juliet Summers, Policy Coordinator for Juvenile Justice and Child Welfare

RE: Support for LB 212, to prohibit the use of restraints in the juvenile court

All children have the right to be treated fairly before the law. Voices for Children in Nebraska supports LB 212, because it will greatly improve the treatment of children in our court system, with minimal risk or cost. It is consistent with known best practices in handling young offenders, and in line with a growing national movement that has proven success in other states.

Nebraska has five juvenile detention facilities, in Lancaster, Madison, Scotts Bluff, Douglas, and Sarpy Counties. **In 2013, these five facilities counted 2,518 total admissions of children under the age of 18. In at least 45 of these admissions, the child was 12 years old or younger.**[1] There were 895 admissions to staff-secure wings, which are meant to house youth who have committed no crime, but for some reason a judge has determined cannot remain at home. According to data from the Juvenile Detention Alternatives Initiative pilot sites, the majority of children incarcerated by the juvenile court are there on technical violations; **in Douglas County in 2013, a child was approximately five times more likely to be in the youth center on a warrant for missing court or running away than for a felony crime.**

I raise these numbers because as current practice holds, any child coming to a juvenile court hearing from one of these facilities, whether secure or staff-secure and regardless of age or nature of the charge, could be appearing in court in chains. There is no blanket rule, so courthouses and courtrooms across the state handle it differently. A child who appears chained in one courtroom might have been unchained, had he come before a different judge down the hall. It is also worth noting that as youth of color are disproportionately represented at our detention facilities, this practice also disproportionately affects them, further perpetuating the criminalized image of minority persons in our society, particularly young black men.[2]

Why does courtroom shackling matter? **Wearing restraints in court is bad for adolescent identity development, detrimental to a child's ability to understand and participate in the proceedings, and ultimately not necessary in a vast majority of cases.**[3] Experts in the field of adolescent psychology have weighed in, highlighting the delicate process of self-identification happening in the adolescent brain. A child who appears in court chained like a criminal may begin to see himself that way. At the same time, the presence of shackles

[1] An individual child may be admitted more than once, and each event would be counted separately. Four of the five centers track frequency of admissions; at those locations, children admitted only once count for 79.7% of the total admissions. The Douglas County Youth Center does not track this data measure.

[2] For instance, though African American children only made up 15.8% of the total youth population in Nebraska in 2013, they represented 28.1% of admissions to detention facilities – and 50.2% in Douglas County alone.

[3] *Unchain the Children: Policy Opportunities to End the Shackling of Youth in Court.* National Juvenile Justice Network, Policy Update. September, 2014. http://www.njjn.org/uploads/digital-library/Shackling-in-Court-Hearing_FINAL.pdf

makes the courtroom a more threatening, stigmatizing environment, where justice is felt as punitive rather than restorative – the opposite of what the juvenile court is meant to be and do.

Nebraska is not alone in considering this reform. A multitude of national organizations of judges, attorneys, mental health professionals, and law enforcement are throwing their support to end the practice of indiscriminate shackling, and a growing number of states have enacted similar reforms, either by statute, court ruling, or court policy.[4] In the status quo, we subject many children to a harmful practice for fear of the possible actions of a scant few. Successful implementation in other states has demonstrated that flipping this presumption, as LB 212 does, would not increase the risk to public safety. For example, in Florida's Miami-Dade County, where the indiscriminate shackling of juveniles was ended in 2006, more than 25,000 children have since come through the courts. None have run, and no one has been harmed.

Treating children like criminals creates criminals. By establishing a rebuttable presumption that most children before the juvenile court are not inherently dangerous or likely to flee, LB 212 protects youth from the humiliation and harmful labeling that shackles impose, leaving judges the discretion to use restraints in those few cases where they are truly required for safety.

Voices for Children in Nebraska thanks Senator Chambers for bringing this important legislation, and the Committee for your consideration of it. We would urge you to advance this bill.

[4] A comprehensive list of national supporters is contained in the testimony provided by David Shapiro of the Campaign Against Indiscriminate Juvenile Shackling, but to name a few: the American Bar Association, the Association of Prosecuting Attorneys, the National Council of Juvenile and Family Court Judges, the National Child Traumatic Stress Network, and the American Academy of Child and Adolescent Psychiatry.