



June 3, 2015

To: Members of the Judiciary Committee
From: Juliet Summers, Policy Coordinator – Child Welfare & Juvenile Justice
RE: Support for LB 422: to provide for reasonable fees and costs for proceedings involving a minor

Children need and deserve stability and permanency. Voices for Children in Nebraska supports this bill, because it would clarify a provision of the Probate Code to ensure that children involved in guardianship proceedings receive excellent representation and support to ensure a positive outcome.

When children are left without clear legal guardianship, probate courts rely on attorney filings, the work of guardians ad litem, and testimony provided by case professionals to determine how best to achieve safe and stable permanency as quickly as possible. However, the Nebraska Supreme Court has held that judges may not award attorney fees in these guardianship cases, absent legislation clearly delineating how and when such fees may be allocated. *In Re Guardianship of Brydon P.*, 286 Neb. 661 (2013). The Probate Code is divided into separate sections, and the Court found that while the other sections have clear legislative intent as to how fees may be assessed, such guidance was lacking in the realm of child guardianships. *Id.* at 667. LB 422 would close this gap, explicitly authorizing courts to award these fees in a prescribed manner.

Permitting courts to award fees for the work done by guardians ad litem, doctors, attorneys, or other necessary supporters ensures that the professionals involved such cases will work diligently on behalf of the child. Clarifying that such fees can be assessed against another party only upon a showing that an action was frivolous balances the competing objectives of maximizing all possible sources of support for the child, and achieving permanency as swiftly as possible. Parties who have a non-frivolous interest in supporting the child need not fear intervening in a guardianship proceeding. Meanwhile, parties who would otherwise unnecessarily get in the way of a speedy resolution would now be deterred from doing so.

We thank Senator Howard for her continued efforts and interest in the well-being of children in Nebraska, and respectfully urge the Committee to advance LB 422.

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