



7521 Main Street, Suite 103
Ralston, Nebraska 68127

(402) 597-3100 P
(402) 597-2705 F

<http://voicesforchildren.com>

BOARD OF DIRECTORS

Eric Nelson
President

Tim Hron, MA, LIMHP
Vice President

Donna Hammack, MSEd
Secretary

Steve Mitchell
Treasurer

Yolanda Chavez Nuncio, MEd
Catherine Damico, JD
Jeremy Fitzpatrick, JD
Joel Jacobs
Eric Johnson
Lloyd Meyer
Daniel Padilla
Michael Socha

Aubrey Mancuso, MSW
Executive Director

A member of:



Find us on:



January 21, 2016

To: Chairman Seiler and Members of the Judiciary Committee
From: Juliet Summers, Policy Coordinator
Re: **LB 893, a bill regarding age of jurisdiction in the juvenile court**

Kids aren't miniature adults. We don't expect our little leaguers to play baseball with the same skill as Major Leaguers. We don't expect a third grader to read or solve math problems as well as a high schooler. Why would we expect a young child who has engaged in bad behavior to have the same reasoning ability, intent, and ability to comprehend complex court proceedings as a teenager? Voices for Children in Nebraska supports LB 893, because it will realign our process to respond to children's behavior in a way that is developmentally appropriate and tailored to achieve rehabilitative goals.

LB 894 would affect a small but meaningful number of children. Attached to my testimony is a data snapshot Voices for Children compiled on numbers of elementary-age children coming into contact with our juvenile justice system. As you can see, **in 2015, only 13 children age nine and ten were placed on juvenile probation.**¹ However, **64 children age twelve and under were detained, and 114 children under the age of ten were arrested.**² In years for which we received detailed data linking age to offense, the numbers show that the youngest children are arrested most frequently for misdemeanor assault (i.e. fighting), theft (i.e. shoplifting), and vandalism (i.e. graffiti).³ These are not the hypothetical 9-year-old shooter; they are elementary children acting out in typically childlike ways. These children may need to be set straight and make things right, but that doesn't mean they need a judge and probation officer – much less that they are capable of understanding the legal processes that would drive that involvement.

Since the hypothetical 9-year-old shooter would be affected by this bill, though, let's talk about her. LB 893 does not prevent the state from acting when faced with a third grader endangering herself or the public. Rather, the court would have a more appropriate mechanism to access rehabilitative services. A filing pursuant to §43-247(3)(a) permits court jurisdiction in a manner that involves the parents or guardians, accessing services and supports through the Department of Health and Human Services rather than Probation. This is the same type of filing that is occasionally used, for instance, when a young person has a serious mental illness and the parents require the assistance of the court and the Department to access needed services.

My experience as a former juvenile public defender suggests a 43-247(3)(a) filing is the more appropriate filing when it comes to little kids doing bad things. The

¹ Data provided by the Nebraska Office of Probation Administration.

² Data provided by the Nebraska Crime Commission.

³ *Ibid.* Data linking age with crime of arrest was provided for 2010-2012.

youngest client I represented was 11 years old. His case would not have been affected by this bill, because he would have been just old enough for the cut-off, but what I can tell you about working with him absolutely applies to even younger children: he was a baby. Trying to discuss the facts of his case with him, much less what the court proceedings meant and potential outcomes were, felt like pouring water into a sieve. Every time we met and I tried to check his understanding, I found that the knowledge I thought I'd imparted the last time had drained right back out of him. Ultimately, his mother made all the decisions for him.

The case was dismissed at trial, but had it not been, Mom would have been the one ensuring he made any appointments with probation, followed through with any court-ordered evaluations and services, went to school and stayed out of further trouble. A no-fault filing under 43-247(3)(a) would have better reflected the reality of which person would bear the brunt of both the procedural decision-making and the substantive court-ordered requirements.

Eighteen other states have set a minimum age for delinquency charging, and it is time we do likewise. Nebraska's juvenile justice system plays an important role in protecting kids and communities, but it is not a panacea and not the appropriate system for our littlest ones.

We thank Senator Pansing Brooks for bringing this important legislation, and would respectfully urge this Committee to move it forward.