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7521 Main Street, Suite 103
Ralston, Nebraska 68127

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

<http://voicesforchildren.com>

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January 19, 2016

To: Chairman Seiler and Members of the Judiciary Committee
From: Juliet Summers, Policy Coordinator
Re: **LB 709, a bill defining alternatives to detention**

We do best by our kids when we invest in programs and services that have demonstrated benefits. In recent years, this Legislature has committed to cutting numbers of youth in detention through targeted investment in evidence-based practices through the Community Based Juvenile Services Aid fund. Voices for Children in Nebraska supports LB 709, because it will define an important term used in the Juvenile Services Act, “alternative to detention,” and will provide a procedural protection when an alternative to detention infringes upon a child’s liberty.

One of the stated purposes of the Community Based Juvenile Services Aid fund is to “reduce the population of juveniles in juvenile detention and secure confinement.” To that end, “alternatives to detention” is listed as a permissible use of funds, but this term is not currently defined in the juvenile code.¹ Meanwhile, the code contains an outdated term, “nonsecure detention,” creating potential confusion about what is and is not a true alternative to detention, and what a detention intake officer’s options are. The definition proposed in LB 709 is consistent with what is utilized by Probation Administration, the Crime Commission, and the statewide Juvenile Detention Alternatives Initiative committee. Clarifying it in statute and providing additional clean-up will harmonize the juvenile code with ongoing work in the state to standardize our responses to youth in trouble with the law.

Here’s why it matters. **In 2014, 2,777 kids were admitted to detention facilities across Nebraska.**² A study commissioned by Probation of their risk assessment instrument (used at the moment of juvenile detention intake) showed that **from 2013-2014, the average score was for release to an alternative to detention, rather than detention.** However, intake officers “overrode” the tool almost 45% of the time – usually upward, sending the youth to detention.³ The study did not draw conclusions about whether the array of alternatives to detention was the determining factor, but it certainly puts the stakes into perspective: children are being detained who may not require that level of security. It is vital that we do what we can to clarify our statute, and to provide counties with resources and incentives to invest in alternatives that work.

¹ *Neb. Rev. Stat. §43-2404.02*

² *2015 Kids Count in Nebraska Report*. Data provided by individual detention facilities.

³ Sara Moore, M.A. & Anne Hobbs, J.D., Ph.D. *Analysis of the Nebraska Juvenile Risk Assessment Instrument – 2015*. University of Nebraska Juvenile Justice Institute: available online at http://www.unomaha.edu/college-of-public-affairs-and-community-service/juvenile-justice-institute/_files/documents/analysis-of-nebraska-intake-risk-assessment-instrument.pdf

In addition to clarifying terms and process around detention intake decisions, this bill contains an important procedural protection for kids by ensuring our screening process doesn't result in unnecessary infringements on children's liberty. The RAI study referenced above also tracked the number of days between release from intake and appearance in court. **Judicial district averages ranged from 16.9 to 97.8 days between intake and court appearance.**⁴ If a child is released from detention but placed on an electronic monitoring ankle bracelet, he may not get back to court to have that decision confirmed by a judge for weeks or even months. What if there is no probable cause for the charge? What if he doesn't actually require the ankle bracelet in order to maintain public safety? LB 709 will prevent justice by geography in these cases, requiring a timely hearing unless waived by the child through counsel.

We thank Senator Howard for her commitment to protecting our kids through wise state investments, and this Committee for your time and consideration.

⁴ *Ibid.*