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January 19, 2016

To: Chairman Seiler and Members of the Judiciary Committee
From: Juliet Summers, Policy Coordinator
Re: **LB 894, a bill regarding the right to counsel in juvenile court**

Voices for Children in Nebraska supports LB 894, because it will ensure youth in our state have meaningful access to one of the great protections of the American justice system: the Constitutional right to counsel. This protection is especially important for children, who may by their age fail to fully understand the grave nature of their actions, the complicated legal proceedings against them, and the potentially life-altering outcomes. Though a juvenile court proceeding is rehabilitative in nature, it has serious consequences: the creation of a court record which may or may not be sealed, dispositional orders that can include months or years on probation or in treatment, even placement in secure detention or the Youth Rehabilitation and Treatment Centers. Juvenile court cases can and often do remain open much longer than adult criminal cases.

Understanding the right to counsel matters. Juveniles may not understand what it means to have a right to an attorney while in custody, and may feel greater pressure from parents or authority figures to waive their rights. This is particularly problematic, since juveniles also are more prone to making false confessions. **Data from the National Registry of Exonerations shows that across a quarter of a century, 42% of exonerations for crimes allegedly committed by youth under 18 years of age involved false confessions.**¹ Requiring that children in custody be informed in developmentally appropriate language of their rights will provide a bulwark against government overreach.

Timing of appointment matters. As a public defender, prior to joining Voices for Children, all too often I was appointed too late. One young client had gone without a lawyer because her parent had insisted on waiver and demanded she plead; months later, once I was brought in and could meet with her confidentially, it became clear that the relationship was physically abusive and Child Protective Services should have been involved all along. In another case, evaluations showed my client was too developmentally delayed to comprehend the nature of the proceedings or the orders of the court, but he had already pled to all charges without counsel in another jurisdiction. In a final example, I was appointed to represent a young man detained on a motion to revoke his probation; he had been struggling for over a year and a half, with a completely fractured relationship with his probation officer and frustration at what he perceived as the unfairness of the court. Earlier appointment might have made a huge difference to how his case

¹ *Exonerations in the United States, 1989-2012: Report by the National Registry of Exonerations.* University of Michigan Law School: June 2012.

went, because in addition to the traditional duty of litigator, a lawyer in juvenile court is also a navigator, mediator, and facilitator.

Competency of representation matters. Think of the court hearings saved, the hours of court staff and probation officers saved, the county and state dollars saved, and most importantly, the infringements on rights saved by earlier appointment of competent counsel in each of those cases. A competent juvenile attorney is a zealous advocate for the child and ensures any filings, proceedings, and recommendations are correct and appropriate. A competent juvenile attorney also knows and can explain to a client and family when and why a plea should be taken instead of trial, what the recommendations are and why it may make sense to agree, and what the court orders are and why they must be followed. LB 894 would improve competency in representation across the state, by mandating standards and training for all attorneys who practice in the specialized area of juvenile law.

Voices for Children in Nebraska would like to thank Senator Pansing Brooks for bringing this important legislation, and the Committee for your time and consideration.