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January 18, 2017

To: Members of the Judiciary Committee

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

Re: LB 11 – Change provisions related to transfer of juvenile cases

Our state policies should ensure that youth caught up in the justice system are given the best opportunity to turn their lives around and become productive adults. In recent years, Nebraska has been a forerunner of national juvenile justice reform, and we are starting to see the positive results of policies based on research into what works. Voices for Children in Nebraska supports LB 11, because it clarifies previous legislative intent on one such reform and will ensure youth are afforded a meaningful opportunity at rehabilitation in the juvenile courts.

In 2014, the Legislature passed LB 464 into law, requiring that nearly all cases in which minors age 17 and younger are charged begin in juvenile, rather than adult criminal court. This bill was based on years of research showing that charging minors as adults does not reduce violence or other antisocial behavior, but is more likely to encourage it. Exposing minors to criminal charges and incarceration leads to increased recidivism, increased risk of prison rape, suicide, and other dangers, and infringes on parental rights and responsibilities to hold youth accountable and support their development into law-abiding citizens.<sup>1</sup> Transcripts of legislative debate from 2013 to 2014 show a widespread commitment by senators to ensuring most teenage offenders have access to the juvenile court in order to maximize youth rehabilitation. County attorneys still have the discretion to file the highest-grade, dangerous felonies in criminal court. They may also file a motion requesting a judge to transfer a case out of the juvenile court and into the criminal court.

The data show that this approach is working. In 2014, there were 1,972 minors charged as adults in the county or district courts. In 2015, that number dropped to 356.<sup>2</sup> Over the same period, juvenile crime has not risen. There are fewer youth today in our adult prison facilities, fewer being placed on juvenile probation, fewer confined in our juvenile detention centers, and fewer committed to our Youth Rehabilitation and Treatment Centers.<sup>3</sup> LB 464, and the 103<sup>rd</sup> Legislature's commitment to responding thoughtfully to teenage crime, is paying off.

So why this bill? Voices for Children supports LB 11, because it does not change anything substantively about Nebraska's jurisdictional scheme that LB 464 set out, which is working so effectively. Rather, it clarifies the timing at which an appeal can

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<sup>1</sup> Centers for Disease Control: Morbidity and Mortality Weekly Report. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*. Vol. 56: No. RR-9, Nov. 30, 2007. Available online:

<https://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>

<sup>2</sup> Kids Count 2016. Available online at: <http://kidscountnebraska.com/juvenile-justice/>

<sup>3</sup> *Id.*

be taken, when a county attorney does file a motion to transfer a case out of juvenile court and into criminal court.

The Supreme Court recently held, interpreting LB 464, that when a juvenile court judge transfers a case to criminal court, the juvenile may not appeal that order until after the criminal process is complete. This could be months or over a year later. Suppose the minor is sixteen and a half when the case is transferred. He goes through trial and sentencing before the county or district court judge, a process which takes several months. He is now a couple months over seventeen, and files his appellate paperwork questioning the decision of the juvenile court judge to transfer his case. An appeal in Nebraska also takes several months from the start of filing to the return of a decision. If the Court of Appeals holds that his case was improperly transferred – that the juvenile court judge erred – he has lost nearly a year and a half, time which could have been spent receiving therapeutic and supervisory services through juvenile probation. He is now eighteen or a little older, with less than a year left before he ages out of juvenile court jurisdiction: very little time to accomplish rehabilitative goals.

LB 11 would permit him to appeal the transfer decision immediately, and to continue to receive temporary rehabilitative orders from the juvenile court while the case is pending appeal. Those same months waiting for the decision on appeal would not be lost; instead, they could be spent receiving substance abuse treatment, making restitution to a victim or in the community, working through family issues, and pursuing education.

Thank you to Senator Krist for his commitment to getting our system right for youth, families, and communities, and to this Committee for your time and thoughtful consideration.