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March 1, 2017

To: Chairperson Ebke and Members of the Judiciary Committee

From: Juliet Summers, Policy Coordinator – Child Welfare & Juvenile Justice

RE: Letter in support of LB 589 – provide for depositions of a child victim or witness

Children who have experienced the trauma of direct victimization or witnessing a terrifying event deserve all the supports we can provide within the bounds of our law and Constitution. Voices for Children in Nebraska supports LB 589 because it takes steps prevent further traumatization to children who often must retell and relive what happened to them multiple times in the pursuit of justice.

Accredited Child Advocacy Centers (CACs), where staff are trained in child development, psychology, and trauma-informed approaches to interviewing, are the best place for child victims to tell their story in a safe environment. At an accredited CAC, a neutral setting will be provided. An interviewer will ask legally sound, open-ended questions intended to allow the child to tell her story without telling it for her. Questioning will be culturally and developmentally responsive rather than interrogatory.¹ Encouraging law enforcement to bring victims or witnesses to CACs for these recorded interviews is good policy, as we seek to minimize and immediately respond to the harm done to these children. LB 589 sets a presumption that an interview completed at an accredited CAC will meet with professional standards that protect children from further trauma, while getting at the truth of an alleged crime. In such cases, where the child has told her story in a safe space and without undue influence, pressure, or interrogation, a deposition may not add or change the nature of the child's evidence. LB 589 thus protects the child from the further traumatization of undergoing deposition pre-trial.

Importantly, LB 589 does permit a court to order depositions when appropriate to protect a defendant's right to due process through the production of relevant evidence pre-trial. If the interview has missed important questions relevant to the defense, or the interviewer has not followed accreditation standards of avoiding leading questions, the court may still permit deposition. If deposition is permitted, LB 589 would nonetheless further protect the child by allowing the court to enter protective orders for how the deposition will be taken. Of course, even in cases where a deposition is not permitted, LB 589 does not prevent the child from being cross-examined during trial.

Whenever children speak up about traumatic experiences, we should take what steps we can to safeguard them and minimize further harm. We thank Senator Crawford for her continued efforts on behalf of children in Nebraska, and also thank the Committee for your thoughtful consideration of this issue.

¹ *Standards for Accredited Members*. National Children's Alliance, Revised 2011. Available at: http://www.nationalchildrensalliance.org/sites/default/files/download-files/NCARevisedStandardsforMembers_0.pdf