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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 8 – Provide for graduated response incentives and sanctions relating to juvenile probation

We all benefit when youth are held accountable for their actions in developmentally appropriate ways that promote community safety and allow them to grow into responsible citizens. In recent years, Nebraska has begun the process of reforming our juvenile justice system to produce better outcomes for youth, families, and communities. Voices for Children in Nebraska supports LB 8 as an important next step in this process, tailoring our juvenile administrative sanctions statute to better respond to the unique rehabilitative needs that youth on probation present.

Teachers have long understood that to maximize learning outcomes and compliance in the classroom, youth respond best when they perceive sanctions as fair, and when teachers utilize a ratio of at least four positive incentives and interactions to one negative punishment or sanction.<sup>1</sup> When it comes to adolescent misbehavior, research shows what every parent of a teenager knows: the effectiveness of any punishment is more related to its timeliness and certainty than to its severity.<sup>2</sup> LB 8 would apply these common sense principles to juvenile probation, by emphasizing the importance of positive reinforcement when youth are doing well on probation, and by increasing probation officers' ability to swiftly and fairly respond to minor violations of the probation contract.

To be clear, we are not talking about youth who pick up new charges or engage in truly dangerous or new lawbreaking behavior while on probation. In such cases, the probation officer is still empowered to request the youth be detained and the county attorney file a motion to revoke the probation order. LB 8 reflects a balanced approach between permitting flexibility for probation officers to respond to minor misbehaviors, and requiring judicial oversight and due process for youth accused of being in major violation of their court orders. In fact, by empowering officers to respond in a swift, fair, transparent and certain way to minor misbehavior, adolescent development research suggests that this new structure will head off worse behaviors.

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<sup>1</sup> Conroy, M. A., Sutherland, K. S., Snyder, A., Al-Hendawi, M. & Vo, A. (2009). Creating a positive classroom atmosphere: Teachers' use of effective praise and feedback. *Beyond Behavior*, 18(2), pp. 18-26.

<sup>2</sup> American Probation & Parole Association, National Center for State Courts, Pew Charitable Trust. Effective Responses to Offender Behavior: Lessons Learned for Probation and Parole Supervision. Available online at: <https://www.appa-net.org/eWeb/docs/APPA/pubs/EROBLLPPS-Report.pdf>

Perhaps most importantly, LB 8 also makes clear that incarceration in secure juvenile detention facilities is not an appropriate response to minor violations of probation that would otherwise not rise to the level risk or dangerousness our laws require to confine youth. There's a reason our Constitution and laws demand a showing of immediate risk of harm to self, community, or risk of flight before a youth can be incarcerated; besides being a violation of individual liberty, the incarceration of low risk juvenile offenders is an extremely costly and ineffective response.<sup>3</sup> Youth who continue to act out in minor ways once placed on probation may frustrate us, but the way our system responds should always be calculated to best change that behavior for the better rather than for the worse. The number of youth confined in our juvenile detention facilities has fallen in recent years from 3,930 in 2011 to 2,597 in 2015 -- without a corresponding rise in juvenile crime.<sup>4</sup> LB 8 is the right next step to keeping more kids out of jail who don't belong there.

Thank you to Senator Krist for being a champion on behalf of Nebraska's youth, and to this Committee for your time and consideration. I'd be happy to answer any questions.

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<sup>3</sup> Pew. [www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/04/reexamining-juvenile-incarceration](http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/04/reexamining-juvenile-incarceration)

<sup>4</sup> KidsCount 2016. Available online at: <http://kidscountnebraska.com/juvenile-justice/>