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January 24, 2018

To: Chair Ebke and Members of the Judiciary Committee
From: Juliet Summers, Policy Coordinator at Voices for Children in Nebraska
Re: LB 689 – Exclude juveniles from the Sex Offender Registration Act

Children deserve the opportunity for second chances, and shouldn't be labelled forever for behaviors they engage in while their brains are still developing. Voices for Children in Nebraska supports LB 689, because it provides statutory protection to codify federal case law holding that youth who engage in sexual misconduct are not, by definition, sex offenders.

I recognize that the terms "sexual misconduct" and "sex offender" are chilling. However, **most young people adjudicated in juvenile court on sexual offenses are engaging in actions that we generally do not think of as sex crimes.** Among younger children, behaviors may be related to sexual exploration that can be addressed with appropriate education about bodies and boundaries. Behaviors we think of as normal and non-threatening, even consensual behavior like sex or sexting between teens, can be considered sex offenses by the law. Sometimes, tragically, sexual offenses occur because the offending child has been perpetrated on herself by an adult. Moreover, numerous studies show that the re-arrest rates for sexual offenses among juveniles are extremely low, far lower than recidivism rates for juvenile offenses overall.¹

Nebraska law was already clear that Nebraska adjudications did not give rise to registry requirements. However, a troubling loophole persisted with regard to juveniles adjudicated in other states which required registry. Prior to joining Voices for Children, I was a juvenile public defender in Douglas County, representing teens and children accused of crimes. I occasionally saw cases wherein a young client, adjudicated in at a young age in juvenile court for what would be a registerable offense for an adult conviction, moved across state lines to a state where they would be required to register. Then they moved back (in one case, because of the other's state's onerous registry requirements). And though under Nebraska law their adjudication did not initially expose them to registering as a sex offender, because they had been on the registry in another state, they were suddenly required to. This was an absurd result.

A panel of the 8th Circuit federal Court of Appeals rectified this issue in August of last year in the *A.W.* case, holding that under Nebraska law, the term "sex offender" has as its "usual accepted meaning" a person who has been *convicted of a crime* involving unwanted sexual conduct.² Because juvenile adjudications are not

¹ *Youth Who Commit Sex Crimes: Fact or Fiction*. Justice Policy Institute. Available at http://www.justicepolicy.org/uploads/justicepolicy/documents/08-08_fac_sornafactfiction_jj.pdf

² *A.W. v. Wood*, No. 16-1898 (8th Cir. 2017)

convictions, an adjudication in Nebraska or elsewhere cannot form the basis of a designation as a sex offender for purposes of lifetime registry. After the decision, the Nebraska State Patrol removed 65 names of juveniles from the public registry.³

Voices for Children supports this bill, because codification into statute provides an additional layer of clarity, and will ensure that children are not labelled for a lifetime for behaviors they'll never engage in again. I'd like to thank Senator Blood for bringing this bill, and the Committee for your time and consideration.

³ Lori Pilger, "8th Circuit says Nebraska's sex offender list doesn't apply to boy, *Lincoln Journal Star*. August 1, 2017. Available at http://journalstar.com/news/local/911/th-circuit-says-nebraska-s-sex-offender-list-doesn-t/article_1b9ea9c7-2fe5-5b7b-879b-784692612bf2.html