

January 23, 2018

To: Chair Ebke and Members of the Judiciary Committee

From: Juliet Summers, Policy Coordinator for Economic Stability and Health

RE: Support for LB 774 to change peace officers' duties regarding encounters with certain juveniles

A robust juvenile justice system should hold youth accountable for their actions in developmentally appropriate ways. When very young children act out, the age-appropriate response will almost always be through disciplinary action by parents or school personnel, rather than court involvement. For these reasons, Voices for Children strongly supported LB 893 in 2016, setting a minimum age for juvenile court charging of 11 years old, which was wrapped into LB 894 that year to pass into law. The LB 893 provisions regarding the handling of children under age 11 rolled out this past July. I write today in support of LB 774, because it provides for an important clean-up to clarify that when engaging with young children suspected of criminal activity, officers need not deliver every case to the Nebraska Department of Health and Human Services, but are empowered to release the child to family, and/or to refer the family to community providers who can offer the family voluntary services.

This clarification is directly in-line with the intent of LB 893, and provides for a best practice in responding to elementary age kids beginning to act out. In 2016, before this change to the law rolled out, there were 81 children under the age of 11 arrested statewide (does not include Omaha: see footnote).¹ The same year, there were only 34 children under age 11 charged in juvenile court,² and only 24 placed on juvenile probation.³ The disparity in these data points suggests that of the few very young children law enforcement officers encounter breaking the law, the vast majority will not need court intervention and can and should be safely returned to parents for appropriate discipline.

Because of the way Nebraska's juvenile statute is structured, officers already have the power to release children to parents if they do not take them into temporary custody. The question presented by the Omaha Police Department, and answered affirmatively by this clean-up legislation, is whether an officer *who has already taken a child under age 11 into temporary custody* may release that child to parents without the involvement of NDHHS. Imagine an officer comes upon a 9-year-old, outside in the evening, spray-painting a wall. This encounter may not warrant referral to DHHS for investigation and court-based services. On the other hand, we would want the officer to be able to return the child to a responsible adult, for safety's sake and so that they can follow up. Driving him home in a police car would be considered temporary custody. This legislation would allow the officer to take custody for the purpose of returning the child home, without requiring a DHHS investigation. In doing so, it affirms the intent of the 104th Legislature in LB 894, to

¹ Data provided by the Nebraska Crime Commission. The Omaha Police Department does not currently report arrest data broken down by age, and thus cannot be included in this disaggregation.

² Data provided by the Administrative Office of the Courts

³ Data provided by Nebraska Administrative Office of Probation. Data reflects the age of children placed on probation in CY 2016, as of July 1, 2016.

ensure officers can take the less restrictive, less intensive approach wherever possible.

This bill also gives officers the ability to refer families to community-based service providers, strictly on a voluntary basis, who can offer crisis intervention, respite care, and other wrap-around services to respond to unruly youth behavior - not just for very young children, but for any age. Our front line officers can and should be empowered to give families the information they need to get help. Early intervention can halt progress toward future justice system involvement, sparing youth and families the trauma of court involvement, and communities the tragedy of further crimes and the substantial expense of court proceedings.

Thank you for your time and consideration, as well as your commitment to ensuring a juvenile justice system that responds appropriately to protect and strengthen communities, families, and youth.