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February 8, 2018

To: Chairman

From: Juliet Summers, Policy Coordinator at Voices for Children in Nebraska

Re: **LB 930 – prohibit use of juveniles’ statements made as a result of custodial interrogation**

At every stage in our justice system, we should ensure that youth are held accountable with safeguards in place to ensure that our response is measured and appropriate. Voices for Children in Nebraska supports LB 930, because it will provide an age-appropriate protection for youth when they come into contact with law enforcement. By requiring the presence and consent of a parent or guardian for a child to waive his or her *Miranda* rights during a custodial interrogation, LB 930 will ensure that any such waiver is more likely to truly be made knowing and intelligently. It will simultaneously ensure that parents are able to respond immediately when a child becomes involved with a criminal investigation.

We are all, children included, entitled under the Constitution to a right against self-incrimination. The required reading of rights under *Miranda v. Arizona* is intended to balance the government’s interest in investigating crimes and pursuing confessions, with the citizen’s interest in understanding and accessing his or her constitutional protections. A custodial interrogation, by its nature, can be coercive – particularly if the individual under interrogation is a child. Children may be more likely to waive their rights without true knowledge or understanding of either what those rights mean, or what the consequences might be.

**Worse, children are substantially more likely to confess falsely to crimes they did not commit.** Studies of exonerations have found that though 13% of adult exonerations involved a false confession, 43% of juvenile cases did. The younger the child, the more likely the false confession: one study found that of all juvenile wrongful convictions, 69% of children age 12-15 falsely confessed, compared to 25% of youth age 16 and 17.<sup>1</sup> Generally, the younger the child, the more likely he or she is to willingly accept responsibility for an act he or she did not commit.<sup>2</sup> Desiring to please, or desiring to leave, the child may be willing to just “go along with” the interrogator, believing that agreement will end the interrogation sooner and make it all go away.

Individuals who are unfamiliar with our justice system are often surprised to discover that police may interrogate a child without a parent’s permission or even knowledge. They may not realize that custodial interrogations can go on for hours, without break or contact with a trusted adult. As a parent, if I were to someday pick up one of my children from school to discover they had been interrogated without my knowledge or consent, I would be livid.

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<sup>1</sup> Steven A. Drizin. *Interrogation Gone Bad: Juvenile False Confessions in the post-DNA Age*. Northwestern University. Available at <https://www.nij.gov/topics/courts/indigent-defense/documents/drizin.pdf>

<sup>2</sup>*Id.*

To be clear, this bill would not eliminate custodial interrogations of children entirely, nor exclude all statements made in such interrogations from evidence. A child could still knowingly and voluntarily waive his or her right against self-incrimination, as long as the parent or guardian is also present and consents to the waiver. A parent is not defense counsel, and may not provide accurate or sound legal advice to the child. Parental presence may in fact encourage rather than prevent a confession.<sup>3</sup> Requiring a caring adult in the room, however, to provide advice and guard the child's best interests, would help to offset the risk of a contaminated confession through pressuring tactics by the government, or the child's simple lack of understanding.

For all these reasons, we thank Senator Hansen for bringing LB 930, and thank the Committee for your time and consideration. We respectfully urge you to advance it.

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<sup>3</sup> Hillary B. Farber. *The Role of the Parent/Guardian in Custodial Interrogations: Friend or Foe?* American Criminal Law Review, Vol. 41: No. 3. 2004.