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February 8, 2019

To: Chairman Lathrop & Members of the Judiciary Committee
From: Juliet Summers, Policy Coordinator for Child Welfare & Juvenile Justice
Re: **Support for LB 388 as amended by AM 208, to change provisions relating to termination of parental rights**

Every child deserves the support and stability of a loving, permanent family. When children come into our child welfare system, every effort must be made to pursue a “forever family” – whether that is by reunification with a parent or extended family, or adoption by a foster parent. In cases where reunification or adoption are not possible, however, an important alternative – particularly for older youth lingering in care – is the option of a guardianship until the age of majority. Guardianships can provide needed safety, stability, and dependable relationship with a trusted adult so that foster youth need not be expected, through no fault of their own, to become independent adults too soon.

The good news is that in recent years, the percent of youth exiting foster care into some form of permanency or stability – reunification, adoption, or guardianship – has been steadily increasing. Most children will either reunify with their original family or be adopted. **In 2017, 204 children (9.7%) exited out-of-home care to a guardianship, 168 of which were subsidized.**¹ 4% still exited to independent living, a number we would like to see drop even closer to zero.

Because a guardianship does not provide the same full level of family permanency that reunification or adoption does, it is important for ongoing child well-being to have clear processes for periodic assessment of the relationship. Our juvenile code grants jurisdiction over guardianship proceedings arising out of child welfare cases, but has been largely silent on how that jurisdiction should operate. LB 388 is the result of a set of recommendations from the Supreme Court Commission on Children and the Courts’ Guardianship Subcommittee, and would provide for a clearer process governing guardianships within our juvenile code. It will ensure that youth who enter guardianships have that relationship and their best interests reassessed and supported as they grow up. Should the original parent seek to terminate the guardianship, or should the guardianship otherwise become at risk of disrupting, the bill provides for a swift intervention with a clear process for reinvolvement of DHHS and the legal parties, to determine whether the parent’s claim is safe for the child, to offer services protecting the guardian-child relationship, or to find an alternative appropriate custody arrangement if need be. These are well-structured provisions that should provide stability and protection for both children and adults agreeing to be guardians.

¹ Voices for Children in Nebraska. *Kids Count in Nebraska Report, 2018*. p 76

I have two other notes, on separate portions of the bill:

- On page 9, lines 15-22, we prefer the language contained in AM 208 to the original draft, but would highlight that this is a nuanced issue. Bonded relationships with loving foster parents are an important consideration when a court has already determined reunification with a parent is not possible. However, there is still immense value to placement with a relative – even, sometimes, in cases where a prior “significant” relationship may not exist – and we don’t want this change to point our system away from the positive steps taken in recent years toward aggressive family finding and commitment to keeping children connected with their biological family, and siblings in particular. There are many factors a court must consider when assessing the best interests of a particular child, and too often, biological family connections may be written off in that equation at a younger age – but become hugely important in the life of that child as he or she grows into adolescence and adulthood.
- On page 7, we strongly support creating a statutory requirement that when an exception to termination of parental rights has been found by the juvenile court, that exception should be reviewed and redetermined at every subsequent hearing. Children deserve better than to linger in care waiting for a relationship that isn’t going to be possible, and this change will require the parties to reassess and move forward with alternative permanency planning when an exception to TPR no longer applies.

Our children thrive when our state systems are structured to get them swiftly to and support them in stable, lifelong family relationships. I’d like to thank Senator Howard for bringing LB 388 and working with us on AM 208, and this Committee for your time and commitment to Nebraska’s kids.