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March 21, 2019

To: Chairman Lathrop and Members of the Judiciary Committee

From: Juliet Summers, Policy Coordinator

Re: LB 595, to change Office of Dispute Resolution to Office of Restorative Justice and Dispute Resolution and change powers and duties of the office

Youth need age-appropriate treatment to develop into healthy, productive grown-ups. When teens commit crimes, we are all better served when they receive needed intervention swiftly and fairly, in ways that will create positive behavior change without leaving lasting damage. Since most adolescents will naturally age out of risky criminogenic behaviors without any intervention at all,¹ lengthy court processes and unnecessarily heavy-handed responses can backfire to *produce* rather than *prevent* recidivism. Voices for Children in Nebraska supports LB 595, as it would increase access to alternative, restorative justice responses to youthful misbehavior.

Restorative justice is an alternative approach to American criminal justice when a violation against a community has been committed. Rather than asking who committed a crime and how they should be punished, restorative justice models ask who has been harmed and how that harm can be repaired. They are based on respect for the fundamental human value of all parties, including the offender. Usually they involve some form of conferencing or mediation to seek a result which will make things right. The mediator, victim, offending youth, and their respective families or support persons, will sit in a circle to come to a reconciliation plan. Studies and meta-studies of restorative justice practices have shown promising results in terms of recidivism, perceptions of fairness by the youth offender, and simultaneously, satisfaction and perception of fairness by the victim.²

Restorative justice is different than our adversarial criminal process, and we should be cautious to ensure it remains so for victims, offenders, and community to reap its benefits. To that end, I have discussed a proposed amendment with Senator Albrecht that I would ask the committee to consider as you deliberate on LB 595. Beginning on page 30, the bill currently allows a county attorney to unilaterally overturn a reparative agreement made through a restorative process. I am concerned that this weaves the adversarial process too closely into a restorative approach. It could allow county attorneys to circumvent the will of the victim to achieve a particular desired "sentence", without affording the youth offender due process of the law through the court.

¹ Michael Massoglia, and Christopher Uggen. *Settling Down and Aging Out: Toward an Interactionist Theory of Desistance and the Transition to Adulthood*. American Journal of Sociology 116 no. 2. (September, 2010).

² David B. Wilson et al. *Effectiveness of Restorative Justice Principles in Juvenile Justice: A Meta-Analysis*. June 2017. Available through the Office of Justice Programs National Criminal Justice Reference Service at: <https://www.ncjrs.gov/pdffiles1/ojdp/grants/250872.pdf>

My suggestion would be to strike page 30, line 26 through page 31, line 3, and insert the following language instead:

(g) The approved center shall give notice to the county attorney regarding the juvenile's compliance with the terms of the reparation plan agreement. If the juvenile does not satisfactorily complete the terms of the agreement, the county attorney or city attorney may:

(i) Refer the matter back to the approved center for further restorative justice practices or services; or

(ii) Proceed with filing a juvenile court petition or criminal charge.

This language would leave the discretion for the appropriate reparative outcome in the hands of the victim and restorative justice circle, while ensuring the county attorney is able to check for compliance and proceed accordingly. At the very least, I would recommend including a requirement that when a county attorney seeks to overturn or make changes to an agreement, notice must be given to any participating victim of the reasons why the proposed agreement was not accepted, and to the youth offender of their due process rights in juvenile or county court and the statutory right to confidentiality of the restorative justice proceedings if he or she chooses to move forward in court rather than accept the county attorney's recommendations.

Nebraskans are hungry for alternative options to our traditional criminal and juvenile justice systems, and LB 595 is a great step in the direction of an alternative approach. I'd like to thank Senator Albrecht for sponsoring this legislation, and this committee for all your hard work to improve our justice systems for all.