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February 13, 2020

**To:** Chairman Lathrop and Members of the Judiciary Committee  
**From:** Juliet Summers, Policy Coordinator for Child Welfare & Juvenile Justice  
**Re:** LB 1117 to change sentencing provisions for crimes committed by a person under twenty-one years of age and change provisions relating to jurisdiction over juveniles

All children deserve society's protection to grow into healthy, productive adults. Even children who commit serious crimes are still children, and we should respond to youth crime in a thoughtful and effective way that preserves community safety, contributes to Nebraska's future prosperity, and gives both children and communities the protection they need. We support LB 1117 because it distinguishes youth crime from other crime, acknowledging that developmental factors simply make youth defendants different. Eliminating life without parole as a sentencing option for individuals up to age 21 and providing for original juvenile court jurisdiction for individuals up to age 18, will ensure that youth will receive access to age-appropriate, evidence-based juvenile justice measures.

Sentencing youth to life without the possibility of parole is inconsistent with empirical, evidence-based knowledge of child and adolescent development. Children and youth are not little adults. Youth have poorer impulse control, are more susceptible to peer pressure, and are incapable of weighing long-term consequences because their brains are still developing and changing, even into their twenties. For these reasons, the Supreme Court has consistently ruled that youth are less culpable for their actions and more amenable to rehabilitation, and as a result, must be treated differently.<sup>1</sup>

The Supreme Court held in 2016 and reaffirmed in 2018 that life without parole sentences as imposed by mandatory statute on a minor are unconstitutional.<sup>2</sup> Since then, however, twenty-two states and Washington D.C. have banned juvenile life without parole (JLWOP) sentences entirely as of January 2020, including: Alaska, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Iowa, Kansas, Kentucky, Massachusetts, Nevada, New Jersey, North Dakota, Oregon, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, and Wyoming.<sup>3</sup> Another six states, Maine, Minnesota, Missouri, New Mexico, New York, and Rhode Island, do not have any individuals serving a life without parole sentence for a crime committed as a minor, though they have not banned the practice entirely. This widespread trend in banning and reducing JLWOP sentences signals a crucial normative and practical shift towards evidence-based, age-appropriate youth justice. LB 1117 follows in that vein, and I would note a particular strength of the bill is its application up to age 21, which is more aligned with the science of brain development than age 18 or 19 would be.

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<sup>1</sup> See *Roper v. Simmons*, 543 U.S. 551; *Graham v. Florida*, 560 U.S. 48; *J.D.B. v. North Carolina*, 564 U.S. 261; *Miller v. Alabama*, 567 U.S. 460

<sup>2</sup> *Miller v. Alabama*, 567 U.S. 460; *Montgomery v. Louisiana*, 136 S. Ct. 718

<sup>3</sup> Campaign for the Fair Sentencing of Youth. Available at <https://www.fairsentencingofyouth.org/media-resources/states-that-ban-life/>

Voices for Children also supports the juvenile court as the appropriate point of origin for all cases when the individual charged is under 18. In 2014, the Legislature passed LB 464 into law, requiring that nearly all cases in which minors age 17 and younger are charged begin in juvenile, rather than adult criminal court. This bill was based on years of research showing that charging minors as adults does not reduce violence or other antisocial behavior but is more likely to encourage it. Exposing minors to criminal charges and incarceration leads to increased recidivism, increased risk of prison rape, suicide, and other dangers, and infringes on parental rights and responsibilities to hold youth accountable and support their development into law-abiding citizens.

**The data show that LB 464 has been hugely successful: the number of minors charged in criminal court has dropped from nearly 2,000 in 2013 to just 220 in 2018.<sup>4</sup> Over the same period, the number of juvenile arrests in our state has continued to fall, from 10,534 in arrests in 2013 to 8,988 in 2018.<sup>5</sup>**

LB 1117 is an appropriate next step from LB 464, extending juvenile court jurisdiction to **all**, as opposed to **nearly all**, cases. This change would ensure that all youth, no matter the charge, have a fair chance to receive access to age-appropriate justice procedures and rehabilitative services while protecting them from the dangers of adult prison. Moreover, the bill provides for a fair balance, by retaining transfer authority in the cases which currently have concurrent original jurisdiction between juvenile and county or district court. County attorneys can still file a motion requesting a judge to transfer a case out of the juvenile court and into the criminal court if they feel the circumstances are severe enough to necessitate a criminal court transfer.

Facing the aftermath of a crime is never easy, especially when the severity of a crime stands in such stark contrast to the social definition and expectations we have for children. Still, we have a duty to remember that children are children and teens are teens, even those who commit the gravest crimes, and they are entitled to age-appropriate treatment under the law. For these reasons, Voices for Children in Nebraska supports LB 1117.

I'd like to thank Senator Pansing Brooks for bringing this bill, and the members of the committee for your time and consideration. I would respectfully urge you to advance it, and I would be happy to answer any questions.

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<sup>4</sup>Voices for Children, *Kids Count in Nebraska 2019 Report*. p 84

<sup>5</sup>*Id.* at 75