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February 5, 2020

To: Chairman Lathrop and Members of the Judiciary Committee
From: Juliet Summers, Policy Coordinator for Child Welfare and Juvenile Justice
Re: **LB 1148 to Change provisions relating to the Office of Juvenile Services and the placement of juveniles at youth rehabilitation and treatment centers**

A sensible juvenile justice system should hold youth accountable in developmentally appropriate ways that promote community safety, and operate on principles of fairness, transparency, and individualized planning. When the government acts in children's lives, we must do so with due process and respect for their rights. Voices for Children in Nebraska supports LB 1148, because it provides stronger procedural protections and direct oversight for youth committed to the Office of Juvenile Services (OJS) for placement at a Youth Rehabilitation and Treatment Center (YRTC). Of all the bills introduced regarding the YRTCs this year in light of the crisis that developed, we see LB 1149 as providing the most immediate protections for youth placed at YRTCs now and in the future. It also cleans up areas of old statute contributing to confusion about the scope of the Office of Juvenile Services' authority, and we believe it provides a necessary judicial interface with LB 1148 and several Health and Human Services Committee bills to bring statutory provisions regarding YRTCs into this new decade.

A brief history of the YRTCs may be helpful to understand how two youth prisons came to play a role in our rehabilitative juvenile justice system. The facility footprint we have existed for well over 100 years, with Kearney initially built in 1879 and Geneva in 1891. Both pre-dated the advent of the separate juvenile court in the United States, and both existed for well over half a century before the first juvenile court was founded in Nebraska in 1959. For much of their subsequent history the facilities were known as "Youth Development Centers" and operated through the state Department of Corrections. It was only in the 1990s that the facilities were renamed the Youth Rehabilitation and Treatment Centers and the Office of Juvenile Services was created, then eventually moved out of Corrections and into the Department of Health and Human Services.¹ Prior to 2013, procedurally the facilities were the "end of the road" in juvenile court; a court would commit a youth to YRTC and close the case. OJS then had full authority for both treatment in placement and managing a parole system afterward – mirroring sentencing in criminal cases to the Department of Corrections. LB 561 in 2013 reversed that course, requiring evidence-based treatment at YRTC and keeping juvenile court jurisdiction open during the period of commitment, for the purpose of reviewing reentry plans and maintaining a youth on intensive supervised probation once back in her home and community.²

¹ A good summary can be found in Terra Luna, *Retrospective Developmental Evaluation of Juvenile Justice Reform in Nebraska*. Prepared for the Nebraska Court Improvement Project. March 2017: p 1-5. Available online:

https://supremecourt.nebraska.gov/sites/default/files/Programs/CIP/developmental_evaluation_jjhbi.pdf

²Nebraska LB 561, 2013. Slip law copy available at

<https://www.nebraskalegislature.gov/FloorDocs/103/PDF/Slip/LB561.pdf>

As a result of LB 561 and increased understanding of youth development and the utility of these types of placements, fewer youth are committed to YRTC each year; **in SFY 2018-2019, prior to the shut-down of Geneva, there were 152 youth admitted to the two facilities (109 to Kearney, 43 to Geneva).**³ Despite these changes, however, it is clear from what happened to Nebraska youth at YRTC over the past year that it is time to take the next protective step and maintain greater court oversight not just of reentry, but of the commitment itself. Voices for Children strongly supports LB 1148 in doing just that, by:

- Requiring the 14-day evaluation be provided to the court and parties for consideration and possible hearing. Getting the individualized treatment plan right from day one is crucial to ensuring time and taxpayer dollars are not wasted on an inappropriate or ineffective plan;
- Providing for monthly updates to the court regarding the progress of the juvenile in treatment;
- Specifying that each facility is its own placement, and requiring notice of a report and formal notice of a change of placement to all interested parties at least seven days prior to the placement change;
- Creating a process by which a party may file a motion for commitment review, to bring the case before the court for consideration of progress, including possible early discharge; and
- Setting a backstop of an annual review, so youth do not get lost lingering in a fruitless commitment. Youth, their families, and Nebraska taxpayers covering the \$400-\$500 per diem cost⁴ all deserve better.

With that, I'd like to thank Senator Vargas for sponsoring LB 1148, as well as this Committee for all your time and commitment to Nebraska kids, families and communities as you pull together a strong package of legislation to move the YRTCs into this new decade. I would be happy to answer any questions.

³ Department of Health and Human Services, *Office of Juvenile Services Annual Legislative Report SFY 2019*. Available at https://nebraskalegislature.gov/FloorDocs/106/PDF/Agencies/Health_and_Human_Services_Department_of/488_20190916-162916.pdf

⁴ In SFY 2019, according to the Office of Juvenile Services' annual report to the Legislature, *supra*, the per diem rate for Kearney was \$402.68 and the per diem rate for Geneva was \$511.58. Total expenditures to administer and operate the two facilities in SFY 2019 were \$ 19,753,256.