January 28, 2021



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To: Chairperson Lathrop and Members of the Judiciary Committee From: Julie Erikson, Lobbyist, Voices for Children in Nebraska

Re: LB 307 - Change provisions relating to appointment of counsel for juveniles

Every child is entitled to due process and equal protection under the law. Voices for Children in Nebraska supports LB 307, because it will ensure youth across our entire state have meaningful access to one of the great protections of the American justice system: the constitutional right to counsel. This constitutional imperative is especially important for children, who may by their age fail to fully understand the grave nature of their actions, the complicated legal proceedings against them, and the potentially life-altering outcomes.

Juvenile court may sometimes be perceived as “kiddie court” or diversionary in nature, but in fact, in every single case, juvenile court judges have a wider range of options available to them than criminal court judges. Though this usually means a lower reliance on the traditionally punitive response of incarceration, it also means that a charge as “small” as minor in possession can, in the juvenile court, open the door to confinement, removal from the family home to a group home program, being placed on probation for an indefinite number of years, forced psychological or psychiatric treatment, or even commitment to the Youth Rehabilitation and Treatment Centers. In that regard, there is no “small” charge in the juvenile court.

Furthermore, after the trial phase, juvenile courts are relatively unbound by the rules of evidence and have wide latitude to make decisions on treatment, placement, and even incarceration on what would in criminal court be considered hearsay evidence. A psychiatrist can make a written recommendation for psychotropic medication or for the youth to be placed in inpatient care and the court may order it. A probation officer may tell the judge that the youth needs to be picked up by sheriffs and confined in a jail-like detention facility until further notice for safety, without a sentence setting a determinate length of that incarceration.

Both of those examples are permissible if the court finds they are in the best interests of that youth ... but would you want to face such a proceeding without a lawyer to assist you and protect your rights? Would you allow your own child to do so?

LB 307 establishes that a court shall not accept a juvenile's waiver of the right to counsel unless the county attorney or city attorney, on the record, waives any possible pre-adjudication or post-adjudication placements of the juvenile outside of the juvenile's home. Additionally, LB 307 provides that on or before July 1, 2022, the Supreme Court shall provide, by court rule, a process to ensure that juveniles are provided the opportunity to consult with counsel to assist the juvenile in making the decision to waive counsel.

Every youth facing a proceeding in which the government can take their liberty, remove them from home and family, put them on medication, or commit them to a psychiatric institution, boot camp, or YRTC should have a lawyer to ensure their rights are protected and they understand what is happening and why. LB 307 would put right our statute, providing every child equal protection under the law, and I urge you to support it. Voices for Children in Nebraska would like to thank Senator Pansing Brooks for bringing this important legislation, and as always, this Committee for your time and consideration.