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Juliet Summers, J.D.
Executive Director

January 23, 2024

To: Chairperson Wayne and Members of the Judiciary Committee

From: Juliet Summers, Voices for Children in Nebraska

RE: Support for LB 959, regarding orders on motions to transfer to juvenile court

Children need our care and protection to grow, thrive, and become productive members of our society. When a young person breaks the law, we must respond in a thoughtful way that gives children their best possible chance at success, while still ensuring the safety of our communities. Our code should be structured to maximize the opportunity for rehabilitation and change that marks the adolescent years – years which can fly too quickly. Voices for Children supports LB 959, because it will ensure that precious months and years are not lost to administrative process.

Under our criminal code, when a child under age 18 is charged in adult proceedings, they may request a transfer of the matter to juvenile court. This motion, which must be made within 30 days of arraignment, tolls the clock for speedy trial. *Neb. Rev. Stat. 29-1816(3)(a)* requires that a hearing be held on the motion within 15 days. It is not uncommon for the defense and prosecution to mutually agree to extensions of the hearing date in order to have evaluations completed or expert witnesses present. However, once evidence is presented at the motion hearing, all the parties – and child – can do is wait for the order. *Neb. Rev. Stat. 29-1816(3)(b)* is clear that order is supposed to be returned within 30 days, moving the case swiftly forward toward either transfer to juvenile court or to a speedy trial as is the child's constitutional right.

Unfortunately, we continue to hear reports of youth waiting longer than 30 days for an order on the transfer motion – sometimes as long as weeks or even months beyond the statutory timeline. When I practiced in juvenile court – though this was before the statutory timelines were enacted – I had one client who waited on this order for over eight months. When it finally came, it was an order allowing the case to transfer to juvenile court – but in the meantime, nearly a year of her life had been spent sitting in detention, a year which could have been spent reconnecting with her education, engaging in rehabilitative programming, participating in therapeutic interventions, and rebuilding her relationship with her family.

When it comes to juvenile court intervention, every day matters; because even though the clock on a criminal trial may be stopped, one thing every parent knows is there's no stopping time when it comes to kids growing up. For a system that leaves our youth, families, and communities healthier and stronger, it is crucial to ensure that time isn't wasted.

I would note that the data show we are not talking about a huge number of cases. In 2021, the latest annual data we have available, there were only 93 motions filed seeking to transfer a case from criminal court to juvenile court, and 72 cases were transferred to juvenile court.¹

LB 959 is a sensible approach that aligns with what we know about adolescent development and is in keeping with the pre-existing presumption in statute that cases should transfer to juvenile court unless a sound basis exists for retention in criminal court. If that sound basis exists, this bill only requires that the order be returned on the timeline already set forth under law.

For all these reasons, we are grateful to Senator Dungan for bringing this legislation forward and would respectfully urge you to advance it. I'd be happy to answer any questions.

¹ Data provided by the Administrative Office of Courts and Probation for the *2023 Kids Count in Nebraska Report*. Voices for Children in Nebraska. Available at <https://kidscountnebraska.com/juvenile-justice-2/> Note that some cases transferred may have been initially filed in 2020, and some motions filed in 2021 may not have been decided until 2023.