Judiciary Committee
AM 1674 – LB 464
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Good afternoon, Senator Ashford and members of the Judiciary Committee. I am Thomas Pristow (T-H-O-M-A-S P-R-I-S-T-O-W) Director of the Division of Children and Family Services of the Department of Health and Human Services. I am here to testify in opposition to Amendment 1674 to LB 464.

Following the passage of LB 561 in 2013, the Department began partnering with the Office of Probation Administration to implement the transition of specific responsibilities from the Office of Juvenile Services to the Office of Probation Administration.

As of July 1, 2013, any juvenile committed by a county court or juvenile court to YRTC-Geneva or Kearney must be placed under intensive supervised probation. As of October 1, 2013, delinquent juveniles and status offenders were no longer placed with or committed to the Department and began being placed under the supervision of the Office of Probation Administration.

Amendment 1674 makes sweeping changes to the juvenile justice system that were not contemplated in LB561. The Department is opposed to the passage of Amendment 1674 as drafted based on four major areas of concern.

First, the new language makes OJS responsible for all costs of juveniles committed to the YRTCs, including evaluations, placement, services, detention and transportation. This will have a fiscal impact on the Department since all the funds for this population, other than the costs of operating the YRTCs, are now with the Office of Probation Administration. Under LB 561, the Department committed all funds for this population to the Office of Probation beginning fiscal year 2014/2015 in an amount of more than $39 million.

In addition, the amendment would require the Department to assume the costs for all dual status youth. This is concerning for two reasons. First, not all services and costs in a delinquency or status offense case are proper to be ordered or paid through an abuse or neglect case. Services such as detention, electronic monitoring, drug testing of juveniles, and many others, are restrictions on liberty that are inappropriate for a court to subject to the child in the context of an abuse or neglect case in which the child is a victim. In

addition, because the Department is not a party to delinquency and status offense cases, it would mean the Department is responsible for costs without any due process or ability to be heard on, object to, or appeal from such orders.

Second, the amendment defines dual status youth, a dually adjudicated youth or dually-involved youth as:

> ". . . any juvenile who comes into contact with both the child welfare or child protection system and the juvenile system or who has an open case with both systems." (page 38, lines 5-8)

This language is far too broad and ambiguous. It would imply the term "contact" means any past historical contact the child may have had with the Department. This interpretation is strengthened by the distinction of the phrase "or has an open case." If this definition is applied, it could significantly increase the population for which the Department is responsible while the funding to carry out this responsibility has already been directed to the Office of Probation Administration.

This amendment strikes language sun-setting OJS parole functions on June 30, 2014. This means OJS can continue parole functions after that date, although the funding for this population has already been statutorily directed to the Office of Probation. Additional staff at DHHS to continue parole functions beyond June 30, 2014, will be needed. At this time, it is estimated that OJS would have approximately 100 juveniles as of July 1, 2014 needing parole supervision. Based on the caseload standards required of 1 to 16 youth or 1 to 17 youth, this would equate to approximately 6.5 staff and 1 supervisor position.

The third major area of concern is that the amendment removes from OJS the authority to discharge a juvenile committed to the YRTC and gives discharge authority to the court. This means the YRTCs will have no control over the admission or discharge of juveniles, which could have a major impact in regard to the Department's ability to address capacity issues, staffing levels, and length of stays, all of which could lead to increased costs.

Additionally, the proposed language states that a release from a YRTC does not constitute discharge from OJS. This suggests that a court could require release from the YRTC without a discharge, and hold OJS responsible for payment or services provided outside the YRTC while in the community. This contradicts other state law, enacted in LB 561, prohibiting courts from ordering DHHS to provide or pay for community-based services for this population.

The fourth major area of concern relates to Section 2 of AM1674, regarding the Office of Probation Administration's ability to enter into an agreement with the Department for Title IV-E funding. The Department is in support of working with the Office of Probation Administration to enter into such an agreement; however, the statutory language must meet federal requirements. The Department has consulted with the Administration for

Children and Families and they advised it is important to make a distinction that the Department is the Title IV-E agency for Nebraska and is ultimately responsible to oversee all aspects of the grant including agreements and agencies performing IV-E functions. Following this communication with the ACF, the Department provided input regarding the language set forth in the bill to the Office of Probation Administration; however, those changes were not incorporated in this amendment. The language proposed by the Department indicated that the Office of Probation Administration would act as a "surrogate" for the Department regarding the Title IV-E program for eligible youth they serve; however, the ultimate authority and responsibility to oversee the functions performed by Probation is the Department's. The Office of Probation Administration would need to agree to such conditions for the Department to enter into an agreement for IV-E funding. I am happy to share the Department's proposed language changes with Senator Krist and the committee for consideration.

Finally, I will provide the Committee legal counsel a document which addresses numerous additional concerns the Department has identified with this amendment.

Thank you for the opportunity to provide testimony regarding Amendment 1674 to LB 464. I would be happy to answer any questions you might have.