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**Testimony
LB1 – Special Session
Judiciary Committee
Monday, November 17, 2008 – 1:30 PM**

Good afternoon, Senator Ashford, and members of the Judiciary Committees. My name is Todd Landry, (L-A-N-D-R-Y), and I am here to testify in support of LB1 which allows a person to leave a child seventy-two hours old or younger in the custody of an employee on duty at a hospital licensed by the State of Nebraska without fear of prosecution based solely on the abandonment.

Safe haven laws were created across the country, in response to an increase in the number of newborns abandoned shortly after birth, in dangerous places, such as dumpsters. Even Nebraska has had similar abandonments. For example, in 2004 a newborn was abandoned in a river spillway in Norfolk. Sadly, that baby died. In 2007, an infant was found in an apartment dumpster in Omaha. Fortunately, that baby was found in a timely manner, lived and was adopted.

All states, other than Nebraska, have responded to this specific issue with safe haven laws that range from three days to one year. Safe haven laws were not meant to provide a way for parents or guardians to abandon their older children by transferring their parental responsibilities to the state.

The current Nebraska Safe Haven law's intent was to protect children who are in immediate danger of being harmed which is reflected in the legislative debate on LB157.

We certainly empathize with parents and caretakers who have difficulty in raising their children, especially children and youth with behavioral and mental health problems. However, if the child is not in immediate danger of harm, there are resources available that parents can and should access so that the family can remain together and the child does not experience the trauma that abandonment may cause. For the vast majority of parents, this is what occurs. However, our experience in recent months shows that this is not always the case and the Safe Haven law has had significant unintended consequences.

The role of the State's child welfare system is to protect children who are fundamentally unsafe. For children or youth who are otherwise safe, it is not the role of the State to intervene in a family's life. Instead, available community services are the appropriate mechanism for families to access for assistance and help.

There are supports across the State available to help families with challenges they may face as they raise their children. Those supports generally come from a parent's own family or extended family, their faith community and from community services and resources. There are valuable tools, like 2-1-1, to help parents locate resources. To help inform the public about resources, the Department has:

- Placed detailed information on our website (which is also highlighted on the State's website, Nebraska.gov), including information about resources such as 2-1-1, the Boys Town National Hotline and Answers 4 Families;
- Partnered with the Nebraska Broadcasters Association, Nebraska Press Association, and United Way to promote the 2-1-1 resource network on television, radio and in newspapers;
- Sent a letter on October 20 to adoptive parents and guardians about available resources.

Copies of these are in your packet as well as a handout that describes the 2-1-1 resource referral system.

The first use of Nebraska's Safe Haven law occurred on September 13th, nearly two months after LB 157 became effective on July 18, 2008. At the time Governor Heineman called a Special Session, 21 children had been abandoned. To date, there have been 25 cases involving 34 children, none of them infants, and most of whom are teenagers or preteens left under the current Safe Haven Law. I've previously provided you and the other members of the Legislature a letter with a handout that shows the 23 cases and the characteristics of these cases. That handout has been updated to show 25 cases and is in your packet.

I want to note a couple of things that are important to remember. The information we've provided does not identify specific children or families and the order of the handout does not reflect the order in which these children were brought to Nebraska hospitals. Five of these children were from another state (Iowa, Georgia, Indiana, Michigan and Florida), and one involved a family who had returned to Nebraska from Arizona only a few days prior to leaving the child at a hospital. To offer some perspective on the number of children and youth left under the current law, I have provided you with a handout that shows that 470,391 Nebraska children are 0 to 18 and, of those children, 28% are Medicaid eligible and 1% are children who have been made wards of the State through child protective services and the Office of Juvenile Services.

It is important to note that none of the children abandoned were in immediate danger of being harmed. Protection from immediate danger is the primary intent of the Safe Haven law. Some may draw the conclusion that the use of Safe Haven thus far is a result of a lack of access to services. The information provided shows that 24 of the 34 children (about 71%) were eligible for and received Medicaid services, 30 of the 34 children (88%) had previously received some type of mental health services and only one had been denied a higher level of care. Of the 34 youth, only three have required a treatment level placement, meaning they have been safely and appropriately cared for in low level placement settings like a foster home or with relatives, which is the level of care that most closely mirrors a home-like setting.

The cases we've seen under the current law demonstrate the need for a change. It is a parent's primary responsibility to care for their children with support from their family, their faith-based

community and their local community. We need to focus on the true intent of Nebraska's Safe Haven law, that is, to protect infants from immediate harm. The Department of Health and Human Services supports the change proposed by Speaker Flood to limit the law to children seventy-two hours old and younger. Changing Nebraska's definition of to mean a child seventy-two hours old or younger, places us alongside 14 other States in their definition of Safe Haven. A handout summarizing the presumptive age limits for the laws in all other states is also provided for your information.

You can see that 72 hours is the most common timeframe used. If the mother felt she was in a dangerous or desperate situation, a 3-day timeframe would encourage prompt medical attention for the newborn. A 10 year study by the Homicide Center for Disease (2003) found that a baby is 10 times more likely to lose its life (murdered/neglected) during the first 24 hours of life than any other age group.

The State's Chief Medical Officer, Dr. Joann Schaefer, has also been the chair of the State's Child Death Review Team. According to Dr. Schaefer, in 2000, a deceased child was presented to the hospital 16 hours after delivery. Although the person bringing the child stated it was still born, an autopsy showed the infant was alive at birth. In that same year, another child died at 26 days due to neglect. In 2004, a newborn was found deceased in a creek and in 2005 there was a death of a child 9 days old due to neglect. These four deaths are included in the child death review reports since 2000 from neglect and or homicide. As noted in the child death review reports, it is most common that the death of a newborn is related to birth defects and pregnancy related issues of pre-maturity. As you can see with the Nebraska cases, nine days and 26 days was too long for these infants. According to Dr. Schaefer, in cases of pre-mature birth, birth defects and genetic disorders, getting timely medical treatment to an infant can be the difference between life and death for that infant.

The safe haven law should not be touted as a solution for women dealing with post partum depression. Dr. Schaefer has said that doctors who treat women for post partum depression work to help them foster a relationship with the infant, not abandon the infant. An overwhelming majority of mothers that go through post partum depression do go on to establish bonds with their children. Dr. Schaefer and I believe we should be encouraging these mothers to seek help, not give their child up through an abandonment law.

In conclusion, I believe LB1 returns us to the initial intent of the law, protection of newborns from harm. Thank you. I would be happy to answer any questions you may have.