

**Testimony on LB 107**  
**Before the Judiciary Committee**  
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Good afternoon Chairman Ashford and members of the Judiciary Committee. For the record, my name is Brad Meurrens, M-E-U-R-R-E-N-S, and I am the Public Policy Specialist and registered lobbyist for Nebraska Advocacy Services, Inc., The Center for Disability Rights, Law, and Advocacy. For over twenty-eight years, Nebraska Advocacy Services, Inc has worked to address systemic abuses and rights violations of persons with disabilities in State operated facilities, especially the three Regional Centers and the Beatrice State Developmental Center. Our approach includes working directly with staff of State facilities and, when necessary, through litigation, in order to improve the care, treatment and protection of facility residents. I am here today to offer our support for LB 107.

Over the past several years, the Center for Medicare and Medicaid Services (CMS) has conducted inspections of state operated facilities for people with mental illness, people with developmental disabilities and veterans. The results of these inspections demonstrate a cyclical pattern in which deficiencies in the treatment and protection of facility residents are identified, followed by submission of a plan of correction that promises short-term resolution but inevitably results in subsequent inspections finding additional deficiencies. A review of the statements of deficiencies and plans of correction (form OMB NO. 093800391) contain numerous examples where CMS standards for resident care, rights and treatment were repeatedly not met, placing the residents at imminent risk of harm. We would be willing to provide specific examples if requested. The failure to address the underlying systemic problems identified during the inspections places the facility in immediate jeopardy status and at risk of losing federal funding.

This pattern has been repeated so frequently that advocates for these populations are greatly concerned. Advocates are unanimous that more oversight and accountability must be in place in order to insure that care, treatment and safety of vulnerable Nebraskans in the custody of the State meets established standards. We strongly support the creation of the Deputy Public Counsel for Institutions as proposed in LB 107, which creates another avenue for the state and the public to hold accountable those institutions responsible for the care and custody of vulnerable individuals. We believe that the situation in State operated facilities demonstrates a grave need for increased accountability and responsibility. As long as Nebraska continues to support institutional living environments for people with disabilities, then the state must hold those institutions and itself by proxy, to the highest standard of care, which is directly what the Deputy Counsel for Institutions would do.

We do have some suggestions to strengthen LB 107. In order to achieve the goals of LB 107 effectively, and in the spirit of greater transparency in government operations, we recommend that the Office of Public Counsel post informational materials in State-operated facilities to make residents aware of the Public Counsel for Institution's purpose, authority, and responsibility as well as how to contact the Public Counsel for Institutions.

We also recommend strengthening the reporting requirements of the Public Counsel. It is important that the public and state officials have information available about the conditions in State operated facilities and what is being done to correct deficiencies in the care, treatment and protection of people with disabilities residing in Nebraska institutions. We recommend removing the permissive language in Section 81-8,251 stating that senators must make a *request* for the annual report, thus requiring the Public Counsel's annual report be sent to all members of the legislature.

~~“Section 81-8,251 In addition to whatever reports he may make from time to time, the Public Counsel shall on or about February 15 of each year report to the Clerk of the Legislature and to the Governor concerning the exercise of his functions during the preceding calendar year. In discussing matters with which he or she has dealt, the Public Counsel need not identify those immediately concerned if to do so would cause needless hardship. So far as the annual report may criticize named agencies or officials, it must include also their replies to the criticism. Each member of the Legislature shall receive a copy of such report by making a request for it to the Public Counsel.”~~

In addition, we recommend the annual report contain more descriptive data about the complaints received by the Public Council for Institutions. For example, information regarding the type of complaint, e.g. abuse, neglect, appropriate treatment, rights violation, and the resolution of the complaint. We would also recommend requiring additional demographic information such as the specific facility; the gender, age and ethnicity of the complainant; and the shift during which the complaint occurred. We would be happy to work with you in the development of such a data set.

Thank you for the opportunity to speak in support of LB 107. I would be happy to entertain any questions the committee may have.