



Better system, better results

Reforms to juvenile justice in Nebraska are helping youths and communities by focusing more on rehabilitation

by Nebraska Sen. Brad Ashford (bashford@leg.ne.gov)

Sarah was a tall, long-haired woman who waited more than three hours to testify in a neutral capacity on a Thursday afternoon in March 2013.

She introduced herself as a mother, an attorney, a lifelong Nebraskan, and a kid who managed to survive. She then sat down before the Unicameral Legislature's Judiciary Committee to say she opposed closing down the state's Youth Rehabilitation and Treatment Centers but agreed that Nebraska incarcerated too many young people.

Sarah then made a statement that illustrated what I had come to believe was an epidemic in our state.

Between the ages of 14 and 18, she had been committed to the local detention center twice, been in foster care, lived in a group home, been committed to the youth treatment centers twice, spent a significant time wearing an ankle monitor, served time on probation and juvenile parole, and been through the state's diversion program.

Soberly, she then noted that the committee members must be wondering which crimes she committed. As it turned out, Sarah was arrested for stealing a ring valued at \$9.99, for possessing a small amount of marijuana and for running away from her home. In summary, nearly five years of this young lady's life had been spent in state facilities for status and nonviolent crimes.

State trending in wrong direction

It was a story we had heard too many times before.

Like many other states, Nebraska, in the wake of budget constraints and other policy priorities, had been struggling with an underfunded and neglected juvenile justice system. While youth incarceration had been decreasing nationwide, Nebraska was one of a handful of states in which it was steadily rising.

During my tenure as chair of the Judiciary Committee, our state faced this sobering reality: We had the fourth-highest rate of youth incarceration in the country, and 45 percent of charges against our young people were in adult rather than juvenile court.

We set out to make change.

I had embarked on juvenile justice reform by emphasizing the importance of getting kids back into school and off the streets. As executive director of the Omaha Housing Authority, I had quickly realized that too many young people were not in the classroom when they should have been. Thus, back in 2010, I sought to beef up the state's absenteeism law.

In addition to addressing absenteeism, LB 800 required the use of graduated sanctions for juvenile probation, provided a clearer process for the sealing of juvenile records, increased funding for our state's Violence Prevention Fund, and required that youths be placed in the least restrictive environment possible.

That fund, in fact, has been a critical tool in combating street and gang violence and supporting programs that seek to reduce homicides. Money goes directly to communities that use a "multifaceted approach" to preventing violence — intervention and



enforcement, punishment where appropriate, and, perhaps most important for our youth, rehabilitation.

LB 800 was the first of a series of bills that increased the due-process rights for youths in our state, emphasized evidence-based treatment, sought to reduce youth incarceration, and sought to keep youths in their homes for treatment and rehabilitation.

In June 2012, the U.S. Supreme Court ruled in *Miller v. Alabama* that mandatory sentences of life without parole for crimes committed by people younger than 18 violated the Eighth Amendment's prohibition on cruel and unusual punishment. As a result, states had to re-examine their sentencing laws.

I felt compelled to act, and introduced LB 44 the following session. It became law in May 2013. While silent on the retroactivity aspect of the juvenile life-without-parole issue, the bill changed sentencing for juveniles from a mandatory life sentence to 40 years to life, with eligibility for parole after 20 years. LB 44 was necessary to comply with the Miller decision, and was an important step in recognizing youth brain development and some of the mitigating factors noted by the U.S. Supreme Court.

Perhaps the crown jewel of our reform efforts was the 2013 passage of LB 561. Prior to LB 561, the Office of Probation Administration and the Nebraska Department of Health and Human Services collaborated on a pilot project in Omaha seeking to keep kids in their homes and increase access to services for juvenile law violators. The bill improved on the great work already being done through this pilot project. First, the project was expanded to the entire state. Second, case management of young offenders was shifted from Health and Human Services to the probation office.

The pilot project had a number of goals:

- providing better access to community services for youths on probation;
- increasing family engagement;
- preventing unnecessary out-of-home placements;
- keeping youths from moving deeper into the system; and
- using evidence-based practices to improve outcomes for youths on probation.

In the short term, the project led to a decrease in the

number of dually supervised youths and an increase in the number of youths who received services while still living at home. Moreover, in our largest judicial district, in-home placements rose among dually supervised youths. The project and its expansion statewide were critical to improving juvenile justice.

Additionally, LB 561 increased community-aid dollars to Nebraska's 93 counties and Indian tribes so they could provide evidence-based treatment.

Significant effect in a short time

Though LB 561 has only been in effect for a short time, we've already seen significant development of local resources, including 11 new diversion programs statewide. LB 561 also took a step toward preventing the unnecessary placement of youths in the state's highest level of care facilities. In effect, the bill required that prior to committing someone to a Youth Rehabilitation and Treatment Center, he or she must have had the chance to exhaust all local community services.

Finally, in my last session, the Legislature expanded the jurisdiction of juvenile courts and required increased data reporting on all youths in the justice system.

Nebraska was one of a few states that gave prosecutors broad discretion as to where juvenile charges could be filed. LB 464 limited this discretion to traffic offenses and higher-level felonies for youths 14 and older; otherwise, youths have the ability to request a transfer to juvenile court when charges are filed in adult court.

Additionally, LB 464 increased youth access to counsel. Youths must be represented by an attorney at transfer hearings, recognizing the importance of juvenile court for youths, families and communities.

Also, to aid future legislatures in policymaking, LB 464 requires the state court administrator to file annual geographic and demographic data on filings and adjudications in juvenile court; the number of youths in adult court and in out-of-home care; and on youth recidivism. LB 464 passed this year with near-unanimous support.

While there is still much work to do in improving our juvenile justice system, Nebraska can and should take pride in the steps it has taken to rehabilitate young people, prevent recidivism and ensure that some of our state's most vulnerable youths have a voice. ★

Nebraska Sen. Brad Ashford of Omaha was first elected to the Unicameral Legislature in 2006; he is serving his last year in office due to legislative term limits.

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