February 26, 2015

Senator Les Seiler
Chair, Judiciary Committee
Room 1113, State Capitol
Lincoln, NE 68509

Chairman Seiler and members of the Judiciary Committee,

My name is Robert McEwen and I am a staff attorney in the Child Welfare Program at Nebraska Appleseed. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans.

We support the requirements in LB 15 because we believe they will help improve the guardian ad litem (GAL) system in Nebraska.

Guardians ad litem play a critical role in Nebraska’s child welfare system, protecting the best interests of children in juvenile court. Our state is fortunate to have many dedicated and knowledgeable GALs who are strong and tireless advocates for children. However, there have also been concerns for a number of years and recent reports have brought to light challenges and unacceptable practices in the GAL system. Through our intake line at Nebraska Appleseed, we have also received calls from families in the system who have reported frustrations that negatively impact their experience in the system and in some cases access to justice for children and families in Nebraska.

LB 15 aims to address some of these concerns through codifying many of the requirements in the Guidelines for Guardians ad Litem for Juveniles in Juvenile Court Proceedings adopted by the Nebraska Supreme Court in 2007. These Guidelines were developed by the Nebraska Supreme Court Commission on Children in the Courts and represent the best practices for GAL representation, but they are currently not mandatory. While we believe that many dedicated GALs in Nebraska consistently practice in accordance with the requirements contained in the Guidelines, we know that not all do. We believe the requirements in LB 15 will improve the representation of children in Nebraska by requiring GALs to follow these practice standards in every case. In particular, the bill requires regular reports to the juvenile court regarding the GAL’s investigation and contact with the child. We believe this will create additional accountability into the system that can improve practice and representation.

We also support LB 15 because it prohibits the use of a flat fee contract system for GAL services. Simply put, these contract structures create disincentives to zealous
representation. We believe that the uniform use of hourly billing will help to ensure that attorneys are fairly compensated for the work they do, that attorneys will have lower caseloads, and that attorneys will provide more effective advocacy for children in juvenile court.

We recognize that some states have crafted legislation requiring guardians ad litem to meet minimum practice standards and have also issued mandatory court rules.¹ We believe that both the judicial branch and the legislative branch have a role to play in ensuring that the best interests of children are protected. Whether the requirements of LB 15 are passed by the Legislature or are adopted as a mandatory court rule or both, we believe these requirements should be mandatory so that all children in Nebraska receive high quality representation of their best interests.

We want to thank Senator Krist and the Committee for your efforts to improve Nebraska’s child welfare system.

Sincerely,

NEBRASKA APPLESEED

Robert McEwen
Staff Attorney
Child Welfare Program

¹ See 705 ILCS 405/2-17; Ill.Sup.Ct. 941; C.R.S.A. § 19-3-203; Chief Justice Directive 04-06, Colorado Supreme Court (Mar. 2013).