

LEGISLATIVE OVERSIGHT & INVESTIGATIONS COMMITTEE

Minutes of the 4th Meeting of the 2023 Interim

September 14, 2023

Call to Order and Roll Call

The 4th meeting of the Legislative Oversight & Investigations Committee was held on Thursday, September 14, 2023, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Adam Bowling, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Adam Bowling, Co-Chair; Senator Brandon J. Storm, Co-Chair; Senators Julie Raque Adams, Danny Carroll, Donald Douglas, Jason Howell, Gerald A. Neal, Michael J. Nemes, and Reginald Thomas; Representatives John Blanton, Lindsey Burke, Ken Fleming, Matt Lockett, Steve Riley, Scott Sharp, and Pamela Stevenson.

Guests: Shannon Moody, Chief Officer of Policy and Strategy, Kentucky Youth Advocates; Terry Brooks, Executive Director, Kentucky Youth Advocates; Cynthia Schepers, Peer Coach Coordinator, Kentucky Youth Advocates; Stephanie Craycraft, Deputy Commissioner, Department for Behavioral Health, Developmental, and Intellectual Disabilities; Rachel Bingham, Director, Office of Statewide Programs, Administrative Office of the Courts; and Ashley Clark, Executive Officer, Department of Family and Juvenile Services, Administrative Office of the Courts.

LRC Staff: William Spears, Committee Staff Administrator; Committee Analysts Jacob Blevins, Joel Thomas, Jeremy Skinner, Shane Stevens, Chris Hall, Ryan Brown, Taylor Johnston, McKenzie Ballard; and Ashley Taylor, Committee Assistant.

Minutes for August 10, 2023

Upon motion by Senator Storm and second by Senator Douglas the minutes for the August 10, 2023, meeting were approved without objection.

Representative Bowling announced William Spears as the new Committee Staff Administrator of the Legislative Oversight and Investigations Committee.

A6 Programs

Terry Brooks, Shannon Moody, and Cynthia Schepers, from Kentucky Youth Advocates, introduced themselves. Mr. Brooks explained that children in Kentucky attend one of three school types: A1 schools are typical public schools, A5 programs are alternative education programs for students with disciplinary issues who cannot stay in a A1 school, and A6 programs are explicitly designed for children who are in state care of the Department for Juvenile Justice or the child welfare system.

Representative Bowling asked how long it had been since a formal review was conducted of A6 programs. Mr. Brooks replied that A6 programs have never been reviewed. Representative Bowling noted this was one of the reasons they brought the witnesses before the committee today.

Ms. Schepers spoke about her personal experience as a foster child in an A6 program. Her 9th grade math class consisted of students from 6th to 12th grades and was taught by a single instructor. While she was given credit for completing her 9th grade math class, she was unprepared for higher level math when she transferred to an A1 school. Kentucky Youth Advocates interviewed about 40 people who were in residential foster care and found some A6 program students did not receive credits needed for graduation. Other interviewed adults compared A6 programs to “dumbed-down” versions of an A1 public-school curriculum.

Mr. Brooks said the real question was how to ensure that young people, who have experienced trauma, enter adulthood as viable members of the workforce rather than being dependent upon their community. He noted that he has been in contact with other states that run programs similar to Kentucky’s A6 programs but operate in a different way and produce good results for students. Mr. Brooks said that if the committee decides to take up A6 programs, members may wish to look into whether money is used for its intended purpose and review student outcomes from A6 programs. Other states are assessing how much children learn in their programs.

In response to Representative Riley’s questions about teacher certifications in A6 programs, Mr. Brooks said the goal is to have certified teachers from the facility’s district. There are mixed results in whether the teachers are certified in the appropriate subjects and at the appropriate level. A6 schools are affected as much as other schools by teacher shortages.

Representative Riley asked if A6 Programs are offered online to compensate for teacher deficits. Mr. Brooks said that A6 facilities have different solutions, but states such as Florida offer entire curricula online.

In response to Representative Burke’s question about the demographics of A6 students, Ms. Moody answered that the most recent numbers for A6 students in Kentucky was about 8,300 youths for the entire year; at any point in time, it was about 1,300

students. About half of those students are from the child welfare system and the other half are from the Department of Juvenile Justice.

Representative Burke asked whether Kentucky A6 programs are in violation of any Federal laws or program requirements such as the McKinney-Vento Homeless Assistance Act, Individual Education Programs, or 504 plans. Mr. Brooks answered affirmatively. For example, there are gaps in compliance with the timeframe for assessment and placement of students in special education programs. Ms. Moody added that many Kentucky A6 programs are not in compliance with Every Student Succeeds Act, which requires that every child have the opportunity to access community schools. Representative Burke expressed concern over these issues and noted that having students at their home school can be the only stability in that child's life. She said if the committee goes forth with this topic, there should be a priority to get as many students as possible into their home schools.

Senator Thomas expressed concern to hear that money allocated for A6 programs are not used for its intended purpose. Mr. Brooks said that he did not know why, but the allocation versus the need and process do not line up.

In response to a question from Senator Storm, Ms. Moody said there are 74 A6 programs in Kentucky.

In response to a question from Senator Douglas regarding accountability at A6 Programs, Mr. Brooks replied that there are many areas that need improvement and used school district test scores as an example. Test scores of students taught at an A6 program are attributed to their home district, not the district of the A6 program. Mr. Brooks hypothesized that if scores counted for the district where the child was taught, there might be more interest in improving instruction at A6 programs. He also indicated that state agencies could make better use of federal matching dollars, noting that A6 programs are not using a 3:1 federal match for money to provide wraparound services.

Court-Ordered Assisted Outpatient Treatment

Stephanie Craycraft and Patti Clark introduced themselves and explained that court-ordered assisted outpatient treatment (AOT) is the practice of providing community-based mental health treatment under civil court commitment. Ms. Craycraft reviewed the statutory eligibility requirement for AOT and reviewed Kentucky's federal Substance Abuse and Mental Health Services Administration (SAMHSA) grant award for supporting AOT implementation. The full presentation is available on the Legislative Oversight and Investigations webpage.

Representative Fleming praised the AOT program and asked if he was correct that a third of AOT participants do well, a third need additional support services, and a final

third struggle with the treatment program regardless of services. Ms. Craycraft confirmed that was close to accurate and noted that an individual may need multiple tries before they find the right mix of support services.

Representative Fleming asked if there was any cost analysis to determine return on the \$24,000 spent on each AOT individual. Ms. Craycraft said that they do not have those figures, but it is in process.

Senator Raque Adams said that in the first two years of the SAMHSA grant, Jefferson County should have received \$2 million but the cabinet returned over \$700,000 of unspent grant money. She further noted that the cabinet secretary had agreed those dollars would be filled with general fund dollars. In response to questions from Senator Raque Adams, Ms. Clark said that she would provide the committee with the number of dollars returned and also agreed to provide an explanation of whether Jefferson County fully realized what they were promised in the original grant.

In response to questions from Senator Raque Adams about budget requests to continue the program, Ms. Craycraft said that the cabinet was still working on its budget proposal.

Senator Raque Adams asked where evaluations are occurring. Ms. Craycraft stated that nearly all referrals come from hospitals and those evaluations occur at the hospital. Ms. Clark noted they had received nine referrals from Jefferson County Courts in the last two weeks. She also added that SAMHSA grant dollars cannot be used to fund AOT for inmate referrals; those referrals are funded with state dollars.

In response to a question from Representative Burke, Ms. Craycraft said that Fayette County's AOT program should be fully functional in October 2023.

Update on Recommendations for the Administrative Office of the Courts from 2018 Report on Kentucky's Foster Care System

Rachel Bingham and Ashley Clark, from the Administrative Office of the Courts (AOC), introduced themselves and provided a presentation on status and implementation of three recommendations from the Program Review and Investigation Committee's 2018 study of Kentucky's Foster Care System. The full presentation is available on the Legislative Oversight and Investigations webpage.

Senator Raque Adams asked about the results of a pilot program where family courts were opened to the public. Ms. Bingham said that she would provide the committee copies of all reports and analyses associated with the pilot program. They did not find a large difference from when judges had the ability to open court if those chose so.

In response to Senator Storm's questions about how quickly judges submit forms, Ms. Bingham said there is not a specific rule that judges must meet but most judges file paperwork promptly. Senator Storm said he has knowledge of a judge who did not file his order for six months. Ms. Bingham agreed to take the issue back to the family court and see if a time requirement could be a potential rule addition in the future.

Senator Carroll asked if AOC or anyone else had studied when it is in the best interest of the child to not reunify them with their family. Ms. Bingham said the answer is case-specific and it depends on the perspective from which the case is viewed. She agreed to return to the committee to discuss what a study might look like if AOC decided to undertake it.

Representative Lockett asked if judges are provided guidance for determining how long the courts should wait for a parent to successfully complete their reunification plan. Ms. Bingham said that judges' decisions are guided by the social worker and the case plan. They have pieces of the family court rules in place, using National Children's Bureau material to support timely parameters. She offered to provide the material to the committee. She also noted that AOC offers training for individuals that represent youth and parents.

Upon motion by Representative Lockett and second by Senator Storm, the meeting was adjourned.