

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 5th Meeting of the 2022 Interim

October 20, 2022

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Judiciary was held on Thursday, October 20, 2022, at 11:00 AM, in Room 149 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative C. Ed Massey, Co-Chair; Senators Karen Berg, Danny Carroll, Alice Forgy Kerr, Johnnie Turner, Stephen West, and Phillip Wheeler; Representatives Kim Banta, John Blanton, Kevin D. Bratcher, McKenzie Cantrell, Jennifer Decker, Daniel Elliott, Joseph M. Fischer, Patrick Flannery, Samara Heavrin, Nima Kulkarni, Savannah Maddox, Kimberly Poore Moser, Jason Nemes, and Jason Petrie.

Guests: Chief Justice John D. Minton, Kentucky Supreme Court; Deputy Chief Justice Lisabeth T. Hughes, Kentucky Supreme Court; Kirk Hazelwood; Tracey Hazelwood; Van Ingram, Executive Director, Office of Drug Control Policy; Pam Darnall, Chair, Recovery Ready Community Advisory Council; Jennifer Hancock, President and CEO, Volunteers of America Mid-States; Natalie Pasquenza, Vice President of External Relations, Volunteers of America Mid-States; and Dallas Hurley, Senior Policy Director, Volunteers of America Mid-States.

LRC Staff: Roberta Kiser, Matt Trebelhorn, Michelle Spears, Lexington Souers, Stacy Byrns Taulbee, and Sasche Allen.

A motion was made by Representative Fischer and seconded by Representative Nemes to approve the minutes of the September 22, 2022 meeting. Minutes were approved by voice vote without objection.

State of the Judiciary

Justice Minton commemorated recently deceased Judge Tom Emberton, a former judge on the Court of Appeals. Justice Minton in the 2022 State of the Judiciary address discussed the challenges of the courts during his 14 year tenure, including the Great Recession and the COVID-19 pandemic. Key achievements during this same time period include eFiling, eWarrants, eEPOs, new trial and appellate case management, and the use of additional technology to improve access to justice and make the courts more user

friendly. Additional changes demonstrate the court's commitment to operating in an ethical and transparent manner and being a good steward of taxpayer dollars. While the creation of the Kentucky Access to Justice Commission and the Racial, Ethnic and Equity Disparities initiative were both instituted under Justice Minton, there is more to be done by the courts in these areas.

Justice Minton expressed appreciation to the General Assembly for appropriating funds to facilitate virtual hearings between county jails and courts, and to improve pay parity for court employees and elected judicial officials while stating that inadequate pay for judges remains a concern. Justice Minton concluded by saying that he hoped the relationship of the General Assembly with his successor will be as productive and as cordial as it has been with him.

In response to a question from Senator West, Justice Minton said that the judiciary is much better prepared to deal with any emergencies that may arise in the future.

Senator Turner expressed his appreciation to Justice Minton for his hard work and wished him enjoyment in his retirement.

In response to a question from Senator Wheeler, Justice Minton stated that the role of the judiciary in an emergency is to respond quickly and to be prepared to deal with the effects of natural disasters both fiscally and physically.

In response to comments from Representative Moser, Justice Minton said that Kentucky's jails and its prisons are the largest mental health institutions in the state and the Judicial Commission on Mental Health was created for this reason. Work on this issue is hoped to continue.

In response to comments from Senator Berg, Justice Minton stated that telehealth has benefited the work of the courts as in many instances it makes treatment of individuals possible.

Representative Flannery said he appreciated the technological changes that have improved efficiency, and he looks forward to additional advances in this area.

In response to a question from Senator Carroll, Justice Minton stated that the separation of powers under which all three branches of government operate was not built for our comfort, but was rather built for tension. The balance of power must be maintained and there is no easy answer as to how this could be accomplished.

In response to a question from Representative Nemes, Justice Minton said that Kentucky's unified court system continues to be a work in progress to better serve the public.

Chairman Massey expressed concerns about civility in the practice of law and stated that he appreciated the efforts of the Chief Justice in this regard.

In response to a question from Representative Bratcher, Justice Minton stated that decision-making is difficult, and the court is attempting to relieve delays in the final adjudication of court cases by adding opportunities for efficiency.

Representative Petrie thanked Justice Minton for his public service, and wished the Chief Justice the best in his retirement.

Chairman Westerfield stated it had been an honor to work with the nationally recognized Justice on various matters, was thankful for his service, and wished him well in his future endeavors. Chairman Westerfield wished Deputy Chief Justice Lisabeth T. Hughes well in her retirement.

Hazing Prevention

Senator Robbie Mills stated that he and Representative Dixon are sponsoring proposed legislation which he summarized to address the issue of hazing. He wanted feedback from the members of the Committee. He provided the reasons he believes the legislation is necessary and recounted other states that have criminal anti-hazing statutes.

Tracey Hazelwood said she appreciated the opportunity to speak on a subject of which her family is most passionate. Her son Lofton enrolled at the University of Kentucky to pursue a degree in agricultural economics and joined a fraternity. Upon receiving his bid card from this fraternity, the hazing began. On October 18, 2021, five weeks into pledging, Lofton passed away. The family was later told Lofton had become intoxicated in preparation for a fraternity activity and was carried to a bedroom in the fraternity house. Members of the fraternity soon left for the planned activity. Another member returned to the house following class and found Lofton unresponsive. While a call for help was made, it was too late. Ms. Hazelwood believes the passage of a law against hazing is needed so no family experiences what their family has experienced in the loss of their son.

Representative Dixon discussed the difficult impact of Lofton's death on the Henderson community. The incident has raised concerns about hazing activities, and it is hoped that by adding criminal penalties for those engaged in hazing many lives will be saved.

In response to a question from Representative Blanton, Senator Mills said that Representative Blanton's concerns are appreciated, that he would follow up with the representative regarding those concerns.

Representative Flannery expressed his sympathy and appreciation for the family sharing their story but stated that much of this could fall under the offenses of assault or wanton endangerment. Engaging in hazing behavior could be enhanced to a Class C felony to help deter this activity.

Representative Heavrin also expressed her appreciation to the family and their desire to turn their pain into helping others.

In response to a question from Senator Berg, Mrs. Hazelwood stated that the fraternity involved no longer had a presence with the University of Kentucky and the fraternity house had been closed and sold.

In response to a question from Representative Bratcher, Senator Mills stated that he did not know unequivocally that alcohol was banned from all fraternities on college campuses in Kentucky but that it was clearly discouraged. A purpose of this legislation is to provide a consequence for violation of alcohol policies.

In response to Senator Kerr, Senator Mills said that including an educational component on the law and the consequences of violation of the law was an appreciated suggestion.

Representative Decker thanked the Hazelwood family for the courage they have shown in sharing their story. She would study this proposed legislation further to ensure that the actions are not covered under other statutes. This is an important issue.

Recovery Ready Communities

Senator Westerfield said the Committee would hear an update regarding Representative Adam Bowling's bill creating the Recovery Ready Communities Act.

Van Ingram introduced Pam Darnall and Dallas Hurley and said that the legislation set up a council of individuals from all across the spectrum of agencies and organizations as well as other stakeholders. Numerous communities would soon receive opioid abatement funds. All communities expressed needs for transportation, transitional housing, and child care.

Mr. Ingram said that the Office of Drug Control Policy contracted with Volunteers of America Mid-States to help develop the protocol for recovery ready communities, to educate cities and counties about what it takes to be a recovery ready community, and then to certify those communities as they apply.

Pam Darnall said that she had seen first-hand the need for communities to develop local, strategic responses to substance use disorder as Kentucky families and children are facing an unprecedented crisis in terms of overdose deaths, children in foster care, and

other issues. Substance misuse in the home was a factor in almost one-half of child fatality and near fatality cases in Kentucky. Substance misuse in the home also creates a greater risk of child abuse and neglect.

Ms. Darnall said that the Recovery Ready Advisory Council's role is to develop a certification that will be used across the state. The criteria used will include evidence-based practices and interventions geared toward supporting existing and creating new recovery systems of care. The framework will be flexible so that communities can pursue the proven strategies that work best for them.

Dallas Hurley said the project was designed to increase recovery capital as well as strengthen and develop recovery oriented systems of care leading to decreased overdose deaths, increased workforce participation, and healthier and safer communities for all.

He discussed the involvement of various stakeholders from all 120 counties and provided an outline for the community certification process focused on prevention, treatment, and recovery support.

In response to a question from Senator Westerfield, Mr. Ingram said that cities and counties are very interested in this program. The program is also receiving greater than anticipated interest from employers for training to become recovery ready employers.

In response to a question from Representative Bratcher, Mr. Ingram said that drug issues will be solved community by community although substance abuse will never be eradicated.

In response to a question from Senator Carroll, Mr. Ingram stated that the Kentucky Opioid Response Effort (KORE) is assimilating claims data with efforts being made to merge that data with Department of Corrections' data to see where people are after treatment.

In response to a question from Representative Moser, Mr. Ingram said that while the certification process has not yet been set by the Council, communities would have to meet various criteria that will be verified by site visits. This process would help identify any gaps in the system. Additionally, the Council would provide oversight. It is anticipated that recertification will be required on a periodic basis.

Representative Banta discussed concerns that have been brought to her by her constituents, particularly grandparents who are caring for their grandchildren, regarding the impact of various messages presumably designed to reduce stigma relating to a genetic link to substance abuse. Children of parents who have substance use disorder frequently ask if they themselves will have a substance abuse issue like their parents.

There being no further business, the meeting adjourned at 12:57 P.M.

