

# **INTERIM JOINT COMMITTEE ON JUDICIARY**

## **Minutes of the 2nd Meeting of the 2023 Interim**

**July 20, 2023**

### **Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Judiciary was held on Thursday, July 20, 2023, 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 Daniel Elliott, Co-Chair; Senators Karen Berg, Matthew Deneen, Gerald A. Neal, John Schickel, Brandon J. Storm, Johnnie Turner, and Phillip Wheeler; Representatives Kim Banta, John Blanton, Kevin D. Bratcher, Lindsey Burke, Stephanie Dietz, Patrick Flannery, Keturah Herron, Nima Kulkarni, Savannah Maddox, Kimberly Poore Moser, Jason Nemes, Jason Petrie, Steve Rawlings, Scott Sharp, and Nick Wilson.

Guests: Rodney Moore, Human Resources Director, Justice and Public Safety Cabinet; Rebecca Norton, Budge Director, Justice and Public Safety Cabinet; Myrissa Ritter, Human Resources Branch Manager Recruitment, Justice and Public Safety Cabinet; Josh Crawford, Director of Criminal Justice Initiatives, Georgia Center for Opportunity; Amanda Hall, Dream.org; John Bowman, Kentucky State Director, Dream.org; Jesse Kelley, Clean Slate Initiative; Adam Haley, Director of Policy and Strategy, Goodwill Industries of Kentucky; Alaina Sweasy; James Sweasy; B. Scott West, Deputy Public Advocate, Department of Public Advocacy; Laura Karem, Juvenile Post-Disposition Branch Supervisor, Department of Public Advocacy; Melanie Low, General Counsel, Department of Public Advocacy; Leah Boggs, General Counsel, Justice and Public Safety Cabinet; Amy Barker, Staff Attorney, Justice and Public Safety Cabinet; William Codell, Staff Attorney, Justice and Public Safety Cabinet; and Julie Ward, Circuit Judge, 17<sup>th</sup> Judicial Circuit.

LRC Staff: Roberta Kiser, Matt Trebelhorn, Randall Roof, Stacy Byrns Taulbee, Joshua Shelepak, and Elizabeth Hardy.

A motion was made by Co-Chair Elliott and seconded by Senator Storm to approve the minutes of the June 8, 2023, meeting. Minutes were approved by voice vote without objection.

### **Department of Juvenile Justice (DJJ) Staffing Update**

Rodney Moore discussed the implementation of several provisions under Senate Bill 162 from the 2023 Session, specifically the development of a limited duration program to allow former employees to return to their previous employment classification and the creation of a Youth Worker-R program, which have been very successful in securing experienced correctional officers that were able to start work immediately. The increase in salaries provided by Senate Bill 162 has also had a positive impact on recruiting both officers and service and support positions. Mr. Moore discussed goals of the department and in response to a question from Senator Westerfield agreed to provide information regarding the staff to detained youth ratio, as well as what additional funding may be indicated to retain community personnel.

Rebecca Norton stated that the department is hopeful the internship program for college students that is offered will result in an increase in full-time staffing as well.

In response to a question from Senator Berg, Mr. Moore stated that applicants were required to have a high school diploma and pass a background check, however they also receive applications from college graduates who want to advance at DJJ.

In response to a question from Representative Nemes, Mr. Moore advised that disciplinary action has been taken in response to the incident at the Adair County facility, including suspensions and termination of employment.

In response to a question from Representative Moser, Mr. Moore agreed to provide information regarding changes in training of DJJ staff and information regarding mental health assessments and treatment.

Senator Schickel expressed concern over the lack of a detention facility in northern Kentucky. Mr. Moore responded that northern Kentucky was a priority area but recruitment of workers is difficult.

In response to an inquiry from Representative Kulkarni, Mr. Moore agreed to provide information regarding the turnover rate of workers noting there has been less turnover since the salary adjustments.

Representative Banta reiterated a request for information regarding training, which Mr. Moore agreed to provide.

In response to comments from Representative Burke, Mr. Moore stated that the department puts the same emphasis on recruiting on the community side as on the detention side. Senator Westerfield requested the specific amount that is needed to move the community side employees up to the same threshold also be provided.

In response to a request from Representative Petrie, Mr. Moore agreed to provide the targeted number of employees and the costs associated with meeting that target as well as trends regarding hiring and retention.

### **Consideration of 505 KAR 001:140 Proposed**

Mr. Codell advised the committee that the administrative regulation under review amends various policies including those relating to the separation of males and females and the transfer of youth based on the security needs and staffing bed capacity. In response to a question from Senator Westerfield, Ms. Boggs stated some amendments address the use of tasers and pepper spray and restraints during transport. Training has been provided as new security measures have been implemented.

In response to a question from Senator Schickel, Ms. Boggs stated there was no requirement in the proposed regulation that requires separate buildings for males and females.

In response to a question from Senator Turner, Ms. Boggs stated that a written record is made when a taser or pepper spray is used.

In response to a question from Representative Herron relating to a report she had received regarding the transfer of a female juvenile four times over the previous weekend, Ms. Boggs stated that this regulation does not address transportation other than security during transportation.

Scott West discussed concerns the Department of Public Advocacy (DPA) has with the proposed regulation not incorporating the language in the law, particularly as it relates to regionalization of placements and facilities. He discussed the effects of a child being placed in a facility far from the child's home not only on the child but also on the representation DPA is called upon to provide. Laura Karem further discussed the difficulties DPA is experiencing regarding representation based upon the current physical placements and stated that deregionalization drives disparities.

Senator Westerfield expressed his concern regarding the striking of the word "regional" from the proposed regulation and concern that the removal of other provisions affects placements near community services and families.

In response to a question from Representative Bratcher, Ms. Karem stated that the information DPA is providing is current.

In response to a question from Senator Schickel, Mr. West stated that in his opinion the regulation should track the language of the statute relating to regionalization.

In response to a question from Senator Turner, Ms. Karem confirmed that the examples DPA has presented do not include children that are represented by private attorneys. Senator Westerfield discussed issues with remote communication between a lawyer and client. In response to an additional question from Senator Turner, Mr. West expressed concerns about confidentiality and security with remote communications. Ms. Karem discussed information that may not be obtained with remote communications.

In response to a question from Senator Westerfield, the Justice and Public Safety Cabinet agreed to defer the regulation and work on an amended proposal. This action was approved by voice vote with no objection.

### **Expungement**

Representative Moser stated that she was presenting this matter to discuss and explore some options for automation of record clearing for individuals who have served their sentences for low-level, non-violent convictions without changing the waiting period or judicial or prosecutorial discretion under the current expungement laws.

Josh Crawford stated that the criminal justice system works best when there is accountability and redemption. He stated Representative Moser's proposal does not change who is eligible for expungement. It changes the process by which an eligible individual expunges the records. Research shows that having a job reduces recidivism and expungement increases job prospects and wages.

Amanda Hall related her personal experiences to the committee and stated that when businesses across Kentucky are struggling to find qualified and ready-to-work employees, formerly incarcerated individuals are one of the biggest areas of untapped talent. Increased employment and wages result in more tax revenue for the state, and stable employment remains one of the best public safety tools.

Alaina Sweasy related her personal experiences to the committee including the costs associated with obtaining an expungement. She discussed the positive impact removing barriers to expungement has on setting children up for success.

John Bowman related his personal experiences and spoke in favor of second chances at life. He stated there were thousands of Kentuckians like him who have turned their lives around and are productive members of society again but often face denial of certain career opportunities and even the ability to volunteer at schools where their children attend. Navigating the process of expungement or having the financial resources to obtain expungement hold many people back from obtaining expungement.

James Sweasy related his personal experiences and discussed how the proposed legislation would help people of limited financial means secure expungement.

Jesse Kelley stated that she engages in national advocacy for expungement and discussed other states that have implemented plans similar to this proposal. She explained

the process in general terms stating that the plan should be specific to Kentucky requirements. She stated that approximately 500,000 individuals could benefit from this plan in Kentucky.

In response to a question from Representative Elliott, Ms. Kelley stated that currently a petition would need to be filed in Kentucky to remove a charge that was dismissed or that resulted in an acquittal.

In response to a question from Representative Dietz, Ms. Kelley stated that a sentence is not deemed completed in Kentucky unless all fines, fees, and restitution have been paid.

Judge Ward stated there was insufficient time left in the meeting to relate her concerns and asked to return at a later time.

In response to a previous question from Senator Schickel, Ms. Kelley clarified what records are retained for prosecutors that could be given to judges if needed in a future sentencing hearing. Representative Moser responded that small business owners retain the ability to hire only those individuals that they choose to hire.

There being no further business, the meeting adjourned at 1:00 p.m.