

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 6th Meeting of the 2023 Interim

November 3, 2023

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Judiciary was held on November 3, 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, Johnnie Turner, and Phillip Wheeler; Representatives Kim Banta, John Blanton, Kevin D. Bratcher, Lindsey Burke, Jennifer Decker, Stephanie Dietz, Patrick Flannery, Keturah Herron, Derek Lewis, Kimberly Poore Moser, Jason Nemes, Jason Petrie, Steve Rawlings, Scott Sharp, and Nick Wilson.

Guests: Chief Justice Laurance B. VanMeter, Kentucky Supreme Court; Deputy Chief Justice Debra Hembree Lambert, Kentucky Supreme Court; Shawna Mitchell, Project Director, Kentucky Judicial Commission on Mental Health; Katie C. Comstock, Director, Administrative Office of the Courts; Angie Darcy, Executive Officer, Department of Pretrial Services, Administrative Office of the Courts; and Jason Dufek, Services Manager, Department of Pretrial Services, Administrative Office of the Courts.

LRC Staff: Roberta Kiser, Matt Trebelhorn, Randall Roof, Stacy Byrns Taulbee, Joshua Shelepak, Stephanie Larkin, and Robert Wright.

Approval of Minutes of the October 13, 2023 Meeting

A motion was made by Representative Elliot and seconded by Representative Petrie to approve the minutes of the October 13, 2023, meeting. Minutes were approved by voice vote without objection.

State of the Judiciary

Chief Justice Laurance B. VanMeter, Kentucky Supreme Court, discussed the state of the judicial branch and matters of significant relevance to the judicial branch. He specifically addressed pay parity within the judicial branch and stated that while substantial progress has been made regarding retention and recruitment, the judicial branch is lagging in compensation compared to the other branches of government. He reported that the judicial branch received an unblemished audit from an impartial third-party auditor for the third year in a row.

Chief Justice VanMeter discussed court facilities and the need for a new construction project in Owsley County and in Franklin County for the Kentucky Court of Appeals. He stated the Court of Appeals project is needed due to water leaks creating a hazardous mold problem in the court's previous location. He also discussed technological matters concerning the judicial branch, including e-filing and e-orders, the replacement of the judicial branch's case management system through American Rescue Plan Act funds, and the impact of artificial intelligence on the judicial branch and the operation of the law.

In response to questions from Senator Westerfield, Katie Comstock agreed to provide information regarding the number of state courthouses that are not ADA compliant. Ms. Comstock also provided an update on the VINE victim notification system. Danny Rhoades provided an update on the Graves County courthouse, which was irreparably damaged in the 2021 tornadoes.

In response to a question from Representative Nemes, Chief Justice VanMeter stated that trial commissioners in Jefferson County are paid out of restricted agency funds.

In response to questions from Senator Schickel, Chief Justice VanMeter stated that administrative release arises from an order that the court re-entered recently that does not include violent crimes, felonies, or violent misdemeanors. Chief Justice VanMeter stated it was the decision of the entire court to enter an administrative release order.

In response to a question from Senator Westerfield, Ms. Comstock agreed to provide information regarding the failure to appear (FTA) rate for individuals released by an administrative release order.

Kentucky Judicial Commission on Mental Health (KJCMH)

Deputy Chief Justice Debra Hembree Lambert, Kentucky Supreme Court, and Shawna Mitchell, Project Director, Kentucky Judicial Commission on Mental Health, presented on the KJCMH. Justice Lambert discussed how serious mental illness (SMI) is higher in jail populations than in the general public and presented related statistics. Justice Lambert detailed the commission's goals, membership, and structure and detailed the Sequential Intercept Model (SIM) which maps out the points of contact an individual might encounter while in the criminal justice system. She also stated that SIM allows communities to identify gaps in resources.

Justice Lambert outlined five recommendations that were given by the National Center for State Courts as a result of the statewide SIM mapping event. She discussed the

KJCMH's interaction with and the involvement of organizations and individuals throughout the state regarding criminal justice and behavioral health. Justice Lambert outlined the commission's upcoming legislative recommendations and future goals of the commission.

In response to a question from Senator Westerfield, Ms. Mitchell stated that evaluations at the Kentucky Correctional Psychiatric Center (KCPC) are administered by the Cabinet for Health and Family Services.

In response to questions from Representative Bratcher, Justice Lambert stated that it requires all seven Supreme Court Justices to issue a Supreme Court order. Justice Lambert stated that KJCMH is funded by the judicial branch budget. Ms. Mitchell stated that the activities of the commission are part of the role of a judge due to a national charge by the State Justice Institute and the National Center for State Courts.

In response to a question from Representative Moser, Ms. Mitchell agreed to provide information regarding the cost of housing individuals with substance use disorders and mental health issues.

In response to a question from Senator Wheeler, Justice Lambert stated competency evaluations are covered within the KCPC budget.

In response to a question from Representative Burke, Justice Lambert stated better trained judges and court staff can help alleviate problems when dealing with individuals afflicted with substance use disorders and mental health issues.

Update on 22 RS SB 90

Katie C. Comstock, Director, Administrative Office of the Courts; Angie Darcy, Executive Officer, Department of Pretrial Services, Administrative Office of the Courts; and Jason Dufek, Services Manager, Department of Pretrial Services, Administrative Office of the Courts, provided an update on 22 RS SB 90.

Ms. Darcy provided an overview of the Behavioral Health Conditional Dismissal Program (BHCDP) and the services BHCDP can provide if a prosecutor can enter into an agreement with a defendant to participate. Ms. Darcy detailed how BHCDP is funded, and what a defendant's journey through BHCDP looks like. Seven counties have active SB 90 pilot sites and there are four other counties with sites that hope to be active by the end of 2023. Ms. Darcy discussed community forums held in pilot site counties, and outlined data collection efforts and implementation efforts, which include the SB 90 Implementation Council.

Jason Dufeck provided information from counties where BHCDP is active. He outlined BHCDP eligibility, eligibility factors, and clinical assessment completion statistics. Ms. Darcy discussed barriers encountered in implementing SB 90, including hesitation from stakeholders and eligibility criteria.

In response to questions from Senator Westerfield, Mr. Dufeck agreed to provide information regarding what percentages of eligibility responses are first-time DUI offenses.

In response to questions from Senator Turner, Senator Westerfield clarified that prosecutors have carte blanche to deny a defendant's entry into an alternative to incarceration program. Ms. Darcy stated that if a defendant is found not guilty of a DUI charge, they are eligible for the BHCDP.

Adjournment

There being no further business, the meeting adjourned at 1:04 p.m.