

**INTERIM JOINT COMMITTEE ON JUDICIARY**  
**Minutes of the 7<sup>th</sup> Meeting of the 2023 Interim**  
**December 15, 2023**

**Call to Order and Roll Call**

The seventh meeting of the Interim Joint Committee on Judiciary was held on December 15, 2023, at 10:00 a.m. in Room 154 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

**Present were:**

Members: Representative Daniel Elliott, Co-Chair; Senator Whitney Westerfield, Co-Chair; Senators Karen Berg, Danny Carroll, Matthew Deneen, Gerald A. Neal, John Schickel, Brandon J. Storm, Johnnie Turner, and Phillip Wheeler; Representatives John Blanton, Kevin D. Bratcher, Josh Bray, Lindsey Burke, Jennifer Decker, Stephanie Dietz, Patrick Flannery, Keturah Herron, Nima Kulkarni, Savannah Maddox, Kimberly Poore Moser, Jason Nemes, Steve Rawlings, Scott Sharp, Pamela Stevenson, and Nick Wilson.

Guests: Whitney Austin, Executive Director and Co-Founder, Whitney/Strong Foundation; Richard Sanders, Chief of Police, Jeffersontown, Kentucky; Steve Shannon, Executive Director, Kentucky Association of Regional MH/MR Programs, Inc. (KARP, Inc.); Senator Denise Harper Angel, Senate District 35; U.S. Senator Rand Paul, R-Kentucky; Rob Sanders, Commonwealth's Attorney, 16th Judicial Circuit; Antoinette Miller; Morgan Miller; and Representative Jared Bauman, House District 28.

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

**Approval of Minutes of the November 3, 2023, Meeting**

A motion was made by Representative Elliot and seconded by Representative Flannery to approve the minutes of the November 3, 2023, meeting. Minutes were approved by voice vote without objection.

**Crisis Aversion and Rights Retention Orders**

Senator Whitney Westerfield, Senate District 3; Whitney Austin, Executive Director and Co-Founder, Whitney/Strong Foundation; Richard Sanders, Chief of Police, Jeffersontown, Kentucky; and Steve Shannon, Executive Director, Kentucky Association of Regional MH/MR Programs, Inc. (KARP, Inc.) presented on forthcoming legislation regarding crisis aversion and rights retention orders.

Senator Westerfield explained his reasoning for drafting legislation regarding crisis aversion and rights retention orders (CARR), citing the elementary school shooting in Nashville and previous shootings in Kentucky. Senator Westerfield discussed specific details of two versions of this bill. Senator Westerfield stated that one version does not include ex parte hearings and instead relies on convincing a law enforcement officer that an individual poses a threat. The second does include ex parte hearings, following the KRS Chapter 202A schedule and protocol, but has the law enforcement step of the first version.

Whitney Austin, Executive Director and Co-Founder, Whitney/Strong Foundation, shared her experience with gun violence, as she was critically injured during the September 6, 2018, mass shooting at the Fifth Third Center in Cincinnati, Ohio. Ms. Austin outlined the purpose of her organization and discussed Kentucky gun death statistics up to 2021, citing data from the Centers for Disease Control and Prevention.

Richard Sanders, Chief of Police, Jeffersontown, spoke about why this legislation should be enacted. Chief Sanders stated what was being discussed is a mental health issue, not a gun issue, and stressed it must be addressed. Chief Sanders cited two cases of gun violence he had encountered during his career in law enforcement, including the 2018 Marshall County High School shooting, as support for this type of legislation.

Steve Shannon, Executive Director, Kentucky Association of Regional MH/MR Programs, Inc. (KARP, Inc.) stated that this legislation is meant to be a prevention tool, not a treatment tool, meant to temporarily deny access to weapons to individuals who are experiencing severe mental health crises and could pose a danger to themselves or others.

In response to a question from Representative Elliot, Senator Westerfield stated this legislation has been drafted as a reaction to the inadequacy of 202A related to relinquishing an individual's access to firearms during a mental health crisis. Senator Westerfield stated involuntary committal is not always necessary and the legislation addresses this.

Representative Maddox voiced opposition to this legislation and provided her reasons for her position on the issue.

In response to a question from Representative Nemes, Senator Westerfield stated that the system currently in place already limits an individual's constitutional rights based on probable cause.

Representative Rawlings voiced concerns regarding this legislation citing the potential unlawful targeting of specific groups of people and individuals filing bogus or untruthful petitions.

In response to a question from Representative Burke, Senator Westerfield stated he would consider merging this legislation with legislation that Representative Burke has been working on.

In response to a question from Representative Flannery, Senator Westerfield stated that this legislation is proposed to stop an individual from hurting themselves or others in real time by using the ex parte hearing. Senator Westerfield stated this option eliminates the opportunity for a respondent to purchase additional firearms before a hearing or lie about how many firearms they own.

In response to a question from Representative Herron, Senator Westerfield detailed how CARR differs in comparison to red flag laws from other states.

### **Crime Victims Compensation**

Senator Denise Harper Angel, Senate District 35, presented on proposed legislation. Senator Harper Angel outlined changes that her bill would require related to crime victims' compensation, including increasing the statutory caps on emergency awards, and increasing the overall cap of reimbursement.

In response to questions from Senator Westerfield, Senator Harper Angel confirmed coverage for tattoo removal under her proposal is for tattoos forced on victims by human traffickers. Senator Harper Angel confirmed the increase in compensation the proposal would award crime victims. Senator Harper Angel confirmed that the Crime Victims Compensation Board has been involved with the drafting of the proposal.

### **Laura Sudkamp**

Senator Westerfield recognized the retirement of Laura Sudkamp, who served the Kentucky State Police for 35 years. Senator Westerfield acknowledged Director Sudkamp's contribution to KSP's crime lab, and her service to the people of the Commonwealth and the state police.

### **Discussion of Kentucky's Violent Offender Statute**

U.S. Senator Rand Paul, R-Kentucky (via pre-recorded video testimony); Representative Jennifer Decker, House District 58; Rob Sanders, Commonwealth's Attorney, 16th Judicial Circuit; Antoinette Miller; and Morgan Miller presented on proposed legislation to revise

Kentucky's violent offender statute. Representative Decker outlined the proposed revisions.

Via a pre-recorded video, Senator Paul stated he learned that Kentucky law treats attempted violent crimes differently than completed crimes in the aftermath of the attempted assassination of then-candidate for Louisville mayor, Craig Greenberg. Senator Paul also cited a Kenton County case where an assailant unsuccessfully tried to rape a woman, and was ultimately convicted of sexual abuse and attempted rape and would be eligible for parole after serving 20 percent of his sentence, since it was only attempted rape. Senator Paul stated current statutes do not adequately punish incomplete crimes and commended Representative Decker for her efforts related to this proposed legislation.

Rob Sanders, Commonwealth's Attorney, 16th Judicial Circuit introduced Antoinette Miller and Morgan Miller whose family member, Jordan Miller, was killed in a motor vehicle crash caused by an intoxicated individual in April 2021. Mr. Sanders explained this individual was convicted of second-degree manslaughter and sentenced to five years in prison in January 2023. Mr. Sanders stated that under the law as it stands, Jordan Miller's death is classified as a non-violent offense and that this individual will be eligible for parole in February 2024. Morgan Miller and Antoinette Miller provided testimony regarding the death of their sister and daughter, respectively.

Mr. Sanders reiterated that the purpose of amending the violent offender statute is to treat any offense that involves the death or serious physical injury to a victim as a violent offense, and to make the penalties for an attempted violent offense the same as a violent offense.

In response to a question from Representative Wilson, Mr. Sanders stated that, under Kentucky law, there is no harsher parole based on who a victim is unless the victim has been murdered.

In response to questions from Representative Flannery, Mr. Sanders stated that only Class A or Class B felonies are 85 percent parole eligibility offenses. Mr. Sanders stated that the purpose of the legislation is to make everything categorized as a violent offense have an 85 percent parole eligibility.

### **Safer Kentucky Act**

Representative Jared Bauman, House District 28; Representative Jason Nemes, House District 33; and Representative Kevin Bratcher, House District 29, presented the Safer Kentucky Act. Representative Bauman discussed the impact of crime in Kentucky,

including the financial impact that retail crime has on businesses in the Commonwealth. Representative Bauman outlined multiple sections of the Safer Kentucky Act including sections requiring life without probation or parole for those convicted of their third violent felony, increasing charges and penalties for fentanyl delivery causing an overdose, and requiring the Transportation Cabinet to provide a driver's license or ID card to incarcerated people who committed felonies upon release.

In response to questions from Representative Blanton, Representative Bauman agreed to consider striking language to remove the possibility of early release for criminals using guns in crime. Representative Bauman discussed the death of Madelynn Troutt who passed away in 2021.

In response to a question from Senator Wheeler, Representative Bauman stated that they do have data that confirms when legislative approaches like the Safer KY Act are enacted, crime statistics do go down. Representative Bauman agreed to provide this data.

In response to comments from Representative Kulkarni, Representative Bauman stated he was open to having conversations about the concerns she raised about the bill.

In response to comments from Representative Burke, Representative Bauman confirmed that changes were made to the Safer KY Act as a result of a meeting with the Coalition for the Homeless.

Representative Nemes clarified that the three strikes portion of the Safer Kentucky Act pertains only to violent offenses.

### **Adjournment**

There being no further business, the meeting adjourned at 12:22 p.m.