

JAIL & CORRECTIONS REFORM TASK FORCE

Minutes of the 6th Meeting of the 2023 Interim

November 8, 2023

Call to Order and Roll Call

The sixth meeting of the Jail & Corrections Reform Task Force was held on November 8, 2023, at 10:00 AM in Room 129 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel Co-Chair; Representative Josh Bray Co-Chair; Senators Brandon J. Storm, and Phillip Wheeler; Representatives David Hale, Keturah Herron, Jason Petrie, and Wade Williams.

Guests: Kenton County Circuit Court Judge Patricia Summe, Kentucky Circuit Judge's Association; Campbell County Circuit Court Judge Julie Ward, Kentucky Circuit Judge's Association; and Melanie Rowe, General Counsel and Sam Cox, Trial Division Attorney, Kentucky Department of Public Advocacy.

LRC Staff: Roberta Kiser, Randall Roof, Joshua Shelepak, and Jennifer Smith.

Approval of the Minutes for the September 26, 2023, Meeting

Representative Williams motioned to approve the September 26, 2023, minutes. The motion was seconded by Senator Wheeler and passed by voice vote.

Approval of the Minutes for the October 23, 2023, Meeting

Representative Hale motioned to approve the October 23, 2023, minutes, seconded by Representative Williams. The motion passed by voice vote.

Felony Sentencing in the Commonwealth

Patricia Summe, Kenton County Circuit Court Judge, provided an overview of the use of a presentence investigation (PSI) report in felony sentencing. A defendant has the right to waive presentation of the PSI; however, the judge must approve of the waiver.

The Kentucky Circuit Judges Association surveyed its members to see how many judges allow defendants to waive presentation of the PSI. Results of the survey showed that PSIs are required by many judges, as well as, waived by several judges.

A report provided by the Department of Corrections (DOC) to the Kentucky Circuit Judges Association showed that in August, 126 judgements were filed within seven days of sentencing, 57 were filed in 14 days, 41 were filed within 30 days, 16 filed in 60 days,

and 32 were filed in 90 days. When these numbers were investigated by members of the association, it was discovered that delays were often caused by staff illnesses and busy court dockets. The association is working with other jurisdictions facing similar concerns from the DOC.

In response to questions from various legislators, Judge Summe said it takes up to six weeks for probation and parole, to complete a PSI. The defendant is then sentenced and it may take two weeks to produce a sentencing judgement depending on the court's schedule. Judge Summe stated that 14-30 days is an appropriate amount of time to submit a sentencing judgment.

Julie Ward, Campbell County Circuit Court Judge, reiterated that she was unsure when the DOC time clock starts with regards to any delays in obtaining sentencing judgments. When reviewing case dockets sent to her from the Administrative Office of the Courts (AOC), the longest delay was four weeks. Counties such as Campbell, Kenton, and Boone share probation officers so it often takes four to six weeks to receive a PSI. If DOC is using the timeframe between plea and sentencing, then the delay is solely waiting for a PSI. If DOC uses the time of arrest as a starting point for probation violations, delay could include the wait time for a revocation hearing.

In response to a question from Senator Schickel, Judge Ward said a defendant can request to waive PSI, but as a judge it is obviously important to know all the factors and circumstances involving the defendant. There are not a lot of PSI waivers in Campbell County.

In response to a question from Representative Petrie, Judge Ward said the delay could be decreased with hiring additional staff. However, she did not know if there was anything that could be done legislatively considering the many variables in criminal cases. Anything the courts can do to help establish efficiencies on their side, they are more than happy to look at.

Waiver of Presentence Investigation Reports

Sam Cox, Department of Public Advocacy, explained the four primary reasons a defendant may waive presentation of their PSI. The four primary reasons are to have a defendant get out of custody, ability for an inmate to move faster within the system, plea agreements, and potential receipt of shock probation. There are also many personal reasons for waiving PSIs, which can also fall outside these four areas.

Melanie Rowe, General Counsel, Department of Public Advocacy stated that waiving of PSIs is not something she encounters routinely. The PSI is a timely process and involves

the defendant to complete a packet of handwriting information. Ms. Rowe stated that most of the delays are caused by understaffing. Also, most clients are ready to be sentenced and have that part of the process behind them.

In response to a question from Representative Petrie, Ms. Rowe agreed that it is important for the information contained in a PSI to be accurate and that is the main reason she does not encourage clients to waive the PSI. If a defendant waives a PSI and is sentenced, there is no way for an attorney or the court to review the information after the fact.

Adjournment

With no further business to come before the task force, the meeting adjourned at 11:55 A.M.