

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 5th Meeting of the 2021 Interim

October 7, 2021

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Judiciary was held on Thursday, October 7, 2021, at 11:00 AM, in Room 149 of the Capitol Annex. Representative C. Ed Massey, 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, John Schickel, Wil Schroder, Robert Stivers, Johnnie Turner, Stephen West, and Phillip Wheeler; Representatives Kim Banta, Kevin D. Bratcher, McKenzie Cantrell, Daniel Elliott, Joseph M. Fischer, Samara Heavrin, Nima Kulkarni, Derek Lewis, Savannah Maddox, Patti Minter, Kimberly Poore Moser, Jason Nemes, Jason Petrie, Attica Scott, and Pamela Stevenson.

Guests: Kerry Harvey Secretary of the Justice and Public Safety Cabinet, Vicki Reed Commissioner of the Department of Juvenile Justice, Dr. Shanna Babalonis, University of Kentucky, Eric Crawford, and Representative Cherlynn Stevenson.

LRC Staff: Roberta Kiser, Matt Trebelhorn, Randall Roof, and Chelsea Fallis.

Approval of the September 17, 2021 Minutes

Representative Massey made a motion to approve the September 17, 2021, minutes, seconded by Senator Westerfield, and passed by voice vote.

Animal Cruelty Cost-of-Care

Representative Banta presented information regarding House Bill 100 from the 2021 Regular Session relating to animal cruelty. She stated that the proposed legislation creates an expedited civil hearing 10 to 15 days after seizure of an animal, separate from the criminal trial, in which the court can determine whether the seizure was lawful, and whether the projected cost of care proposed by the agency is reasonable. If a court finds that an agency has met its burden, the owner must post bond for the cost of care for the animals that were seized, removing the burden from the taxpayers. If animals are not forfeited to an agency, the bond renews every 30 days or until the criminal proceeding is concluded.

In response to Senator Wheeler, Representative Cherlynn Stevenson stated that reimbursement for a person subsequently cleared of animal cruelty charges is currently in discussion as an addition to House Bill 100. In response to Senator Wheeler, Representative Banta added no lien against property has been proposed, and animals may be voluntarily relinquished and adopted if an owner does not wish to continue ownership or cannot maintain costs of the animal. Representative Stevenson reiterated that owners receive an expedited cost of care hearing by the court, allowing owners to release ownership if they wish to do so.

In response to Representative Cantrell, Representative Stevenson gave examples of protection layers that House Bill 100 would create for the animals and defendant.

In Response to Senator Wheeler, Representative Nemes referenced section three of House Bill 100 stating that the cost to a defendant who cannot afford reimbursement would be the cost of the bond, and if the defendant is found not guilty the bond is returned.

Juvenile Detention Centers

Kerry Harvey, Secretary of the Justice and Public Safety Cabinet, stated that the safety, security, and well-being of the adolescents and adults entrusted to the Department of Juvenile Justice (DJJ) is priority, including staff. Evidence-based training is provided annually to staff members providing advanced safety measures within the juvenile facilities. COVID-19 presented significant staffing challenges in 2020 and 2021 resulting in further need of investments for staffing resources.

Vicki Reed, Commissioner of the Department of Juvenile Justice, stated that implementing education and work force development skills will allow for greater community involvement in the juvenile justice system. The Department of Juvenile Justice is serving approximately 239 youth ranging between 10 to 21 years old, and operating 18 treatment facilities to provide education and counseling for adolescents who remain in the community. Commissioner Reed stated that DJJ is a place of employment for people who want to make a difference in the life of a child. Employees are obligated to report corrupt or unethical behavior or policy violations that may affect the youth or the integrity of the Department of Juvenile Justice.

Representative Massey voiced his concern about abuse reports that took place within the juvenile facilities that caught media coverage before an internal report was provided to the Kentucky General Assembly from the Department of Juvenile Justice.

In response to a question from Senator Westerfield, Commissioner Reed stated the number of instances permissible for use of excessive force before an employee is terminated depends on the circumstance, with no set number in policy.

In response to Senator Westerfield, Secretary Harvey stated that there is not a policy that differentiates between substantiated and unsubstantiated disciplinary response, the disciplinary action being situational.

In response to Senator Westerfield, Commissioner Reed stated when isolation is necessary, facility policy and procedures are implemented. If isolation exceeds the two-hour minimum, supervisor approval is needed and with each extension the chain of command is notified for approval or dismissal.

In response to Senator Westerfield, Secretary Harvey stated that the Internal Investigations Branch is primarily responsible for investigations regarding the Department of Juvenile Justice. Senator Westerfield requested an annual analysis on the number of reviews and restraint reports received by the Internal Investigations Branch.

In response to Senator Westerfield, Commissioner Reed stated that employees are trained on riot and hostage situations and are not permitted to abandon their posts during such events. Secretary Harvey added that if an agency is needed to gain control during an emergency situation, there is not a designated agency in policy to be notified.

In response to Senator Wheeler, Secretary Harvey stated that staff are to adhere to their training during situations when excessive force is required.

In response to Senator Schickel, Commissioner Reed stated that if a staff member is injured by a juvenile while on duty, criminal charges can ensue.

In response to Representative Bratcher, Commissioner Reed stated that there is video coverage in all of the juvenile facilities. The Internal Investigations Branch is the only outside entity able to view facility footage.

Senator Turner requested statistical documentation on the number of incidents that physically affect the employees and Senator Berg requested to view the excessive force policy.

Medicinal Cannabis

Dr. Shanna Babalonis, Assistant Professor at the University of Kentucky and a medicinal cannabis researcher, stated that in Kentucky there is not enough scientific research on which conditions to treat with medicinal cannabis for physicians to adequately prescribe a specific dosage or strain.

In response to Senator Berg, Dr. Babalonis stated that due to Kentucky's opioid crisis there needs to be additional research and clinical trials on how medicinal cannabis affects opioid users and opioid overdoses. Dr. Babalonis stated that the University of Kentucky's medicinal cannabis research is funded by the National Institutes of Health and

the National Institutes of Drug Abuse. Kentucky is currently conducting controlled studies on the effects of driving behavior while under the influence of cannabis in comparison to alcohol.

In response to Senator West, Dr. Babalonis stated that in states where cannabis is legalized, toxicology analyses were not performed to show that any decrease of opioid deaths was related to cannabis use. The National Academy of Science released additional statistics showing in states that have legalized medical cannabis, the overdoses by opioids have increased 25 percent.

In response to Representative Moser, Dr. Babalonis stated that having a center specific to medicinal cannabis research would be beneficial in expediting clinical trials and U.S. Food and Drug Administration (FDA) processes.

Representative Nemes introduced Eric Crawford who spoke on his transformative experience with medicinal cannabis as a pain alleviative for physical disabilities and injuries he sustained in an accident. Mr. Crawford gave statistics on opioid overdoses, adding that there are no known deaths from medicinal cannabis use.

Due to time restraints, Representative Nemes gave a synopsis on changes made to House Bill 136 from the 2021 Regular Session relating to the legalization of medicinal cannabis.

In response to Representative Moser, Representative Nemes stated that the research component is covered in section 31 of the draft for the 2022 Regular Session and that the draft does not cover recreational use of cannabis.

In response to Representative Banta, Representative Nemes stated all medicinal cannabis would be manufactured in Kentucky.

There being no further business the meeting adjourned at 1:36 P.M.