

# **INTERIM JOINT COMMITTEE ON JUDICIARY**

## **Minutes of the 1st Meeting of the 2022 Interim**

**June 9, 2022**

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

The 1st meeting of the Interim Joint Committee on Judiciary was held on Thursday, June 9, 2022, 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, and Johnnie Turner; Representatives Kim Banta, John Blanton, Kevin D. Bratcher, McKenzie Cantrell, Jennifer Decker, Daniel Elliott, Joseph M. Fischer, Samara Heavrin, Nima Kulkarni, Derek Lewis, Savannah Maddox, Chad McCoy, Patti Minter, Jason Petrie, and Pamela Stevenson.

Guests: Circuit Judge, Julie Goodman; Commonwealth's Attorney, Rob Sanders; Deputy Public Advocate, Scott West; Department of Public Advocacy, Directing Attorney, Ashley Graham; Organizing Coordinator of the ACLU of Kentucky, Marcus Jackson; Directing Attorney of the Kentucky Innocence Project, Suzanne Hopf; State Policy Advocate of the Kentucky Innocence Project, Laurie Roberts; Johnnetta Carr, Mike Von Allman; and Tennessee House District 24 Representative, Mark Hall.

LRC Staff: Roberta Kiser, Randall Roof, Michelle Spears, Lexington Souers, Stacy Byrns Taulbee, and Chelsea Fallis

### **Tennessee General Assembly-House Bill 1834**

Tennessee House District 24, Representative Mark Hall discussed House Bill 1834 from the Tennessee 2022 Regular Session relating to driving under the influence.

In response to Representative Massey, Representative Hall stated that House Bill 1834 passed the Tennessee General Assembly unanimously, and restitution orders would be at the discretion of the district attorney or judges.

In response to President Stivers, Representative Massey stated that if a parent is killed as a result of a drinking and driving accident, the offender would be obligated to pay child support. If a child support order was in place prior to the accident the offender would replace the party paying child support as the obligor.

In response to President Stivers and Senator Turner, Representative Hall stated that the potential offset in litigation of a wrongful death case would be at the discretion of the court, taking into account the needs of the child and the income of the offender.

In response to Senator Berg, Representative Hall stated if an offender cannot pay child support due to lack of finances, the child support will still be owed and can be collected through garnishments and liens. Whether the offender would have to serve additional time for not paying child support would be at the discretion of the judge.

### **KRS 532.080-Persistent Felony Offender Sentencing**

Representative Massey explained that there are many inconsistencies with persistent felony offender (PFO) charges, how they are being implemented, and the effects on defendants.

Organizing Coordinator for the ACLU of Kentucky, Marcus Jackson, urged for removal of the language prohibiting probation, shock probation, conditional discharge, and mandatory minimums for non-violent, non-Class D offenders sentenced to a first degree PFO.

Commonwealth's Attorney Rob Sanders urged the General Assembly to consider the effects that language removal to the existing PFO statutes would have on the judicial system.

Circuit Judge Julie Goodman discussed the effects that the current PFO statutes have on the judicial system and parameters that could be implemented for defendants that are on probation and owe restitution.

Directing Attorney Ashley Graham and Deputy Public Advocate Scott West with the Department of Public Advocacy spoke on the discrepancies of the current PFO statutes. Ms. Graham stated that jurors have confusion with PFO enhancements and penalty ranges.

In response to Senator Turner, Mr. West stated that an additional area of focus for the General Assembly should be the approach to violent crimes. Senator Turner requested a copy of provisions made by the Commonwealth's Attorney's office and the Department of Public Advocacy to current PFO statutes.

Representative Petrie suggested that the scope of review of the applicability of the statute should include to whom is it applied; to what cases and to what charges is it applied; along with the levels of offense. The discretion of a judge in sentencing a PFO conviction, and allowing juries to use discretion, should also be considerations.

In response to Senator Berg, Mr. West stated that in order to get a Class D felony for possession of marijuana, a defendant has to have eight ounces of marijuana with intent of trafficking and there is no data in the state of Kentucky regarding PFO charges being placed based on ethnicity.

### **Exoneration Compensation**

Directing Attorney with the Kentucky Innocence Project, Suzanne Hopf, urged legislation for wrongful conviction compensation in Kentucky that would allow compensation for past and present exonerees.

Past exonerees, Johnetta Carr and Mike Von Allman, spoke on their wrongful conviction experiences.

Director of Policy with the Innocence Project, Rebecca Brown, spoke on the financial hardships that exonerees face after release. Ms. Brown stated that a compensation law should be in place for wrongfully convicted individuals.

In response to Representative Bratcher, Ms. Hopf stated per the statistics of the Innocence Project and National Registry of Exonerations there are approximately 1.25 exonerations in Kentucky per year. Moving forward there would be a two year statute of limitation for filing in a circuit court.

There being no further business the meeting adjourned at 12:57 P.M.