

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 6th Meeting of the 2022 Interim

November 3, 2022

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Judiciary was held on Thursday, November 3, 2022, at 11:00 AM, in Room 149 of the Capitol Annex. Senator Danny Carroll, Acting 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, Gerald A. Neal, John Schickel, Wil Schroder, Robert Stivers, Johnnie Turner, Stephen West, and Phillip Wheeler; Representatives Kim Banta, John Blanton, Kevin D. Bratcher, McKenzie Cantrell, Jennifer Decker, Daniel Elliott, Patrick Flannery, Samara Heavrin, Nima Kulkarni, Chad McCoy, Kimberly Poore Moser, Jason Nemes, Jason Petrie, and Pamela Stevenson.

Guests: Senator Ralph Alvarado, Senate District 28; Richard V. Hornung, Managing Partner, Hebel & Hornug, P.S.C.; Executive Director Josh Crawford, Pegasus Institute; Robert Blizzard, Partner, Public Opinion Strategies; Marcus Jackson, Organizing Coordinator, ACLU of Kentucky; Charley Olena, Senior Director of Advocacy, Secure Democracy USA; Executive Director Jason Hall, Catholic Conference of Kentucky; and Greg Kildow, General Manager, RAD Accessories.

LRC Staff: Roberta Kiser, Matt Trebelhorn, Randall Roof, Michelle Spears, Lexington Souers, Stacy Byrns Taulbee, and Sasche Allen.

A motion was made by Senator Schickel and seconded by Senator Wheeler to approve the minutes of the October 20, 2022, meeting. Minutes were approved by voice vote without objection.

Planned Community Act

Senator Ralph Alvarado reviewed proposed legislation governing the creation, operation, or management of homeowner associations (HOAs) and planned communities.

Richard V. Hornung spoke on his involvement with the Kentucky Chapter of Community Association Institute and stated the revised version of the uniform Planned Community Act would efficiently provide self-determination by owners and improve the overall welfare of HOAs and planned communities by adding default provisions where

contracts lack basics of transparency, proper amendatory rights, budget and financial review and violation enforcement.

In response to Senator West, Senator Alvarado stated that modifications have been made to the previous bill during the 2022 interim.

In response to Representative McCoy, Mr. Hornung stated that owners of an HOA or planned community with declarations and bylaws are bound by those contract documents. If the declarant of a common community files for a declaration of record, the declarant must have a board of directors to assist in mandating the infrastructure of the community. Representative McCoy suggested additional language to disclude rural areas.

In response to Senator Schickel, Mr. Hornug stated that the current proposal is a modified version from the 2017 legislative session initial draft.

In response to Representative Kulkarni, Mr. Hornug stated that language declaring a control period has been modified by removing financial reporting, as well as modifications made to the seller's disclosure section.

In response to President Stivers, Mr. Hornug stated that existing communities that are in contractual agreements will not be affected by the proposed legislation.

In response to Senator Turner, Mr. Hornug stated that allowing a mechanism for developers to opt out would defeat the purpose of the legislation.

Restoration of Felon Voting Rights

Charley Olena discussed legislation for the restoration of voting rights for felony offenders such as Senate Bill 223 from the 2022 legislative session which included language restoring voting eligibility for convicted felons. This restoration would immediately occur upon completion of the sentence and release from supervision by the Department of Corrections, only exempting individuals convicted of treason, bribery in an election, or election fraud.

Robert Blizzard shared voting poll statistics from a statewide survey conducted in September.

Jason Hall stated support for the restoration of voting rights on behalf of several organizations.

Greg Kildow and Marcus Jackson provided testimony as impacted individuals regarding the restoration of voting rights.

In response to Senator Wheeler, Ms. Olena stated that voting rights would be restored after the convicted individual completed sentencing for all crimes committed unless the individual is on probation or parole.

In response to Representative Blanton, Ms. Olena stated that the requested legislation would include language stating that three years after an individual has completed their sentence, they would have the right to hold office and be selected for jury duty but the requested legislation would not address possession of a firearm, as that is a statutory provision.

In response to Senator West, Ms. Olena stated that it was her opinion that the proposal would require a constitutional amendment and could not be done by statute. At this time voting rights can only be restored by one individual, the governor, under the clemency power.

In response to Senator Turner, Ms. Olena stated that completion of a sentence would be defined by the Department of Corrections. Once an individual is no longer under the supervision of the Department of Corrections their voting rights would be restored.

In response to Senator Schroder, Mr. Jackson stated that he petitioned Governor Beshear for the restoration of his voting rights but has received no response to his request. Ms. Olena stated that records have been requested from the Governor's Office for individuals seeking restoration regarding their status.

In response to Representative Nemes, Ms. Olena stated that a study from the Alliance of Safety and Justice found that six in ten victims of a crime would prefer a system that is focused on prevention and rehabilitation programs with restoration of voting rights being part of the rehabilitation process.

In response to Representative Decker, Ms. Olena stated that the documented studies are of convicted individuals that have completed probation and parole.

In response to Representative Elliott, Ms. Olena stated that the majority of the 43 states that have passed legislation regarding restoration of voting rights have exempted individuals charged with election fraud, treason, and bribery in an election. Other states have exempted additional charges unique to that state.

In response to Senator Carroll, Ms. Olena stated that some states treat repeat offenders differently.

Solitary Confinement

Josh Crawford provided a presentation regarding solitary confinement. Solitary confinement is disciplinary segregation as a punitive response to inmate behavior, and in

the short-term can be a useful administrative tool to help ensure inmate and staff safety. Long term solitary confinement has repeatedly been found to have adverse effects on an inmate's mental and behavioral health and increases recidivism.

In response to Representative Banta, Mr. Crawford stated that equipping correctional officials with additional tools could diminish the long-term use for solitary confinement. Procedures providing a clear path for release from solitary confinement would also be recommended to limit its long-term use.

Senator Schickel and Representative McCoy provided their experiences and observations regarding solitary confinement in correctional facilities.

There being no further business, the meeting adjourned at 12:47 P.M.