

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 7th Meeting of the 2022 Interim

December 15, 2022

Call to Order and Roll Call

The 7th meeting of the Interim Joint Committee on Judiciary was held on Thursday, December 15, 2022, at 11:00 AM, in Room 149 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Senators Danny Carroll, Alice Forgy Kerr, Gerald A. Neal, Wil Schroder, Johnnie Turner, Stephen West, and Phillip Wheeler; Representatives Kim Banta, John Blanton, Kevin D. Bratcher, McKenzie Cantrell, Jennifer Decker, Joseph M. Fischer, Patrick Flannery, Samara Heavrin, Nima Kulkarni, Derek Lewis, Patti Minter, Jason Nemes, and Pamela Stevenson.

Guests: Cabinet for Health and Family Services, Secretary Eric Friedlander; Department for Community Based Services, Commissioner Marta Miranda-Straub; Department for Community Based Services, Deputy Commissioner Lesa Dennis; Office of Legislative and Intergovernmental Services, with the Justice and Public Safety Cabinet, Natalie Burikhanov; Criminal Justice Statistical Analysis Center, Justice and Public Safety Cabinet, Elzie Burgher; Justice and Public Safety Cabinet, Secretary Kerry Harvey; Department of Juvenile Justice, Commissioner Vicki Reed; House District 20, Representative Patti Minter; House District 75, Representative-Elect Lindsey Burke; KY Mental Health Coalition, Executive Director Dr. Sheila A. Schuster.

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

Approval of the November 3, 2022, Minutes

Senator Schroder made a motion to approve the November 3, 2022, minutes, seconded by Representative Minter, and passed by voice vote.

Report on 22 RS SB 271

Natalie Burikhanov stated that Kentucky has the second highest rates of domestic violence in the United States. Senate Bill 271 sponsored by Senator Westerfield will provide connected data on domestic and interpersonal violence that will be analyzed on a state level and across private sectors. Quality data allows service providers to better target programming, increase critical funding opportunities, and fill gaps and services, while also

enhancing training for first responders, and determining the efficacy of criminal justice processes.

Elzie Burgher stated that the Criminal Justice Statistical Analysis Center (CJSAC) is working with other agencies to provide evidence-based and collaborative research on domestic violence in Kentucky. CJSAC is also working with the Kentucky State Police and with the Kentucky Coalition Against Domestic Violence to update the JC-3 form to meet the requirements of Senate Bill 271.

In response to Senator Westerfield, Mr. Burgher stated that all law enforcement officers uniformly use the JC-3 form both electronically and on paper, and he would provide Senator Westerfield with the number of agencies who are reluctant to use electronic JC-3 forms.

Mr. Burgher stated that the results for the annual report for Senate Bill 271 will be available July 1, 2023.

Senator Westerfield requested that the Criminal Justice Statistical Analysis Center report to the General Assembly any changes that could be made legislatively.

Conservatorship Advocacy to Remove Exploitation (C.A.R.E) Act

Representative Minter explained that the Conservatorship Advocacy to Remove Exploitation (C.A.R.E) Act she has proposed would update Kentucky's conservatorship laws to provide protection and self-determination for an individual with a disability.

Representative Minter read a supporting statement from a District 20 constituent, Attorney Ashley Shepherd.

Dr. Sheila A. Schuster stated that the Kentucky Mental Health Coalition is in support of the proposed legislation due to the level of protection it provides an individual who is disabled or partially disabled.

Representative-Elect Lindsey Burke stated that she is in support of the legislation.

Investigative Policies of Complaints Involving Neglect and Abuse

Secretary Eric Friedlander stated when there is a child fatality, the Department for Community Based Services (DCBS) has likely been involved with the family or the child.

In response to Senator Westerfield, Secretary Friedlander stated updates are being made to how DCBS investigates allegations, and research is being conducted on prevention services.

In response to Senator Westerfield, Secretary Friedlander stated that DCBS social workers are trained to investigate abuse and neglect cases. The Office of the Inspector General investigates a facility's licensure and compliance with the law on training, staffing, and staff supervision.

In response to Senator Westerfield, Secretary Friedlander stated that the investigators did not see a pattern of excessive force at the Bellewood and Brooklawn child and family services facility but the facility received a statement of deficiencies. Commissioner Marta Miranda-Straub stated that children are no longer being placed in the Bellewood and Brooklawn family services facility, and 10 children have been removed since the investigation began. She stated that all Bellewood and Brooklawn employees are required to be certified and licensed. The training at the facility is being evaluated as a part of the investigative process.

In response to Senator Westerfield, Deputy Commissioner Lesa Dennis stated that there are approximately 8,600 children in out-of-home care, and approximately 600 to 800 children in residential care.

In response to Representative Nemes, Secretary Friedlander stated that the Louisville Metro Police Department is involved in the investigation, and private employees that were allegedly involved in the case have been terminated.

In response to Senator Schroder, Secretary Friedlander stated that in the Evansville, Indiana child death case, DCBS had initial investigations, much like most multi-state child death cases.

In response to Senator Westerfield, Deputy Commissioner Dennis stated that in an active neglect claim, the DCBS policy states that a social worker is to make a face-to-face unscheduled contact visit.

In response to Senator Turner, Secretary Friedlander stated that there are statutes, regulations, and policies in place for when a contact visit is to be made.

Senator Westerfield requested a follow up meeting when the internal investigation is complete.

Senator Carroll explained the functionality of the fatality and near fatality review panel.

In response to Senator Westerfield, Deputy Commissioner Dennis stated that in 2021 there were 209 fatalities or near fatalities. The data for 2022 is not complete.

Juvenile Justice Facilities

Commissioner Vicki Reed stated that 48 percent of the male population in juvenile detention facilities are charged with capital murder offenses and Class A, B, and C felonies. Twenty-seven percent are convicted for Class D felonies, and 25 percent for misdemeanors and status offenses. The juvenile detention centers house youth that have been arrested of a crime, before conviction or sentencing. Youth development centers are residential treatment centers for youth who have been committed or sentenced to the Department of Juvenile Justice (DJJ) as a final disposition, and are processed based on their risk score. In 2023, the DJJ will house youth based on their offense level and security considerations.

In response to Senator Westerfield, Secretary Kerry Harvey stated that juveniles within the detention centers are openly involved in gangs and gang related violence. He stated that his knowledge on the Jefferson Regional Juvenile Detention Center's construction condition is limited.

In response to Senator Westerfield, Commissioner Vicki Reed stated that monthly reports are an American Counseling Association requirement.

In response to Senator Westerfield, Secretary Harvey stated that retaining adequate staffing for the Department of Corrections and Department of Juvenile Justice has been problematic and financial resources have been exhausted. He stated that the average pay for correctional staffing in 2022 is approximately \$23 per hour.

In response to Senator Westerfield, Secretary Harvey stated that the Department of Corrections will not be opening a correctional facility in Campbell County. The male juveniles housed there will be relocated and segregated based upon gender.

In response to Senator Wheeler, Commissioner Reed stated that the juveniles involved in an incident in the Adair County Juvenile Detention Center had higher classifications. Secretary Harvey added that juveniles of all classifications were being housed in together during the time of the incident.

In response to Senator Wheeler, Secretary Harvey stated that there have been discussions with Governor Beshear on enhancing security measures and separating the juveniles based on the severity of their offense and behavior. Secretary Harvey stated that the juvenile officers are not currently equipped with self-defense equipment which is under review.

In response to Senator Wheeler, Secretary Harvey stated before the current system, juveniles were housed in the county where they resided. Commissioner Reed stated when DJJ was formed there were two juvenile justice centers in operation, and juveniles that were not being housed in a juvenile facility were housed in an adult correctional facility.

In response to Senator Westerfield, Commissioner Reed stated that as of December 14, 2022, there were 151 juveniles in residential care that were post adjudication, and 192 in a juvenile detention facility. She stated that the Adair County Juvenile Detention Center does not have sufficient staffing.

Representative Blanton voiced his concern on the recruitment wages for newly hired employees versus the wages of senior employees at the juvenile centers.

In response to Representative Bratcher, Commissioner Reed stated that there are states with private contract facilities.

Senator Carroll stated that the Investigative Oversight Committee has been researching and visiting juvenile correctional facilities to collect data on the staffing shortage.

Senator Turner expressed his concern over the housing of juveniles.

Representative Nemes stated that the response from a records request by the General Assembly was inadequate and that a subpoena will be issued.

Heather Bryant Spoon, an Adair County resident, provided statistics on the Adair County Regional Jail and a proposal for the facility's maintenance and occupancy.

There being no further business the meeting adjourned at 1:44 P.M.