

# **JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY**

**April 12, 2018**

## **Room 643 of the Legislative Office Building**

The Joint Legislative Oversight Committee on Justice and Public Safety met on Thursday, April 12, 2018 at 1:00 PM. The meeting was held in Room 643 of the Legislative Office Building. Members present were: Representatives Boles, Davis, Burr, Faircloth, Floyd, Graham, Jackson, McNeill, Rogers, Stevens, Turner, Hurley, Jordan, Richardson, Speciale, Steinburg, Zachary, and Pierce. There were four Senators present.

Senator Shirley Randleman presided. Senator Randleman called the meeting to order and introduced the Senate Sergeant at Arms, Terry Edmondson, Becky Myrick, and Frances Patterson, and the House Sergeant at Arms John Gilbert, David Linthicum, Dean Marshbourne and Glen Wall.

### **Opening Remarks**

Senator Randleman asked for a motion to approve the previous meetings minutes. Representative Turner was recognized and noted that she had submitted three corrections to the clerks and moved to approve as amended. The motion carried.

### **Public Comments on Prisons**

Senator Randleman asked Kenneth Lassiter, Director of Prisons, to recognize prison staff in attendance. Mr. Lassiter wanted to recognize two officers for outstanding heroism and service to the system. Mr. Lassiter recognized Sergeant Currier who had recently saved a choking inmates life by performing the Heimlich maneuver, and Officer Flowers for her work with officer's families affected by the events at Pasquotank. Mr. Lassiter continued to note officers and staff in attendance. Sen. Randleman asked them all to stand for recognition by the committee.

Senator Randleman announced that there were eleven speakers signed in for the public comment section. She noted that each speaker should be able to take closer to five minutes rather than the two minutes listed in the agenda. Officer Samuel Adams, Foothills Corrections Institution, was recognized first and offered his experiences as a correctional officer.

Susanne Beasley, State Employees Association, offered a letter to the committee from the mother of Sergeant Meggan Callahan. Copies of the letter were later distributed to the members.

Officer Debra Ezuma, Polk Correctional Institution, spoke to her experience as a correctional officer.

Representative Steinburg asked to be recognized and referenced the incident at Lanesboro that occurred earlier in the morning and offered prayers for the officer.

Representative Speciale asked officer Ezuma how things had changed over time for her and why. She replied that there was a lack of control and too much of a soft handed approach to dealing with criminals.

Senator Randleman added that any of the speakers today could submit written responses to the committee.

Representative Steinburg commented that he felt it was important for the public to hear the questions generated by the committee and the responses. Senator Randleman recognized John Poteat to remind the committee of the public comment feature on the website.

Officer Brianna Knox, Forsyth Correctional and Officer Tommie Flowers, Pasquotank Correctional spoke about their experiences as correctional officers.

Representative Pierce asked to be recognized and mentioned the importance of legislators visiting correctional facilities.

Larry Dale, Eastern Division Director of Prisons, spoke and welcomed legislators to come visit the prisons.

Representative Boles asked for an explanation of what happens when an inmate assaults a corrections officer. Mr. Dale replied that the prisons needed more support from the District Attorneys because many charges are dismissed. Representative Boles asked how it could be handled administratively. Mr. Dale replied that they look at each case individually and that they do have procedures for removing an inmate from general population.

Representative Floyd commented that Correctional Officers are often looked at differently from Law Enforcement officers.

Representative Steinburg referenced the significant amount of correspondence he has received from Correctional Officers. He cited that officers often felt that they were blamed for confrontations with inmates. He asked Mr. Dale to comment.

Mr. Dale explained the use of force standards and replied that if an officer follows the standards they will have full support of management.

Senator Randleman asked Susan Sitze, Legislative Analysis, to explain the penalty for assaulting a Correctional Officer. She explained that the general assault of a state government officer is a a(1) misdemeanor, if there is a physical injury then class I felony, a serious injury is a class F felony, and with a firearm is a class E felony. Representative Floyd asked about how that compares to a law enforcement officer. Mrs. Sitze replied that they were equivalent.

Representative Jackson asked for a comparison to a simple assault. Mrs. Sitze replied that for someone who is not an officer of the state it would be a class 1 misdemeanor. Representative Jackson asked Mr. Dale if the administrators making the policies had experience as officers. Mr. Dale replied that you do not come into prisons as an administrator.

Representative McNeill asked Mr. Dale if he felt like the grievance system was a fair system. Mr. Dale replied that he felt it was because the inmate had to explain exactly what occurred and what was said. Representative McNeill asked if an inmate could file a grievance because an officer cursed at them. Mr. Dale replied that they could and added that an officer could be dismissed for cursing an inmate. Representative McNeill asked what happened when an inmate cursed a guard. Mr. Dale replied that it was recently upgraded from a C charge to a B charge. Representative McNeill asked how quickly grievances are adjudicated. Mr. Dale replied that they have three days to decide if it meets the criteria, then the inmate has fifteen days to reply to the step one response. If the inmate does not agree then there is a twenty day period to accept a step two response. If that is not agreed to then it goes to the grievance resolution board. Representative McNeill commented that the system seemed to be weighed in favor the inmate.

Representative Speciale asked about where the dismissal policy for swearing came from. Mr. Dale replied that they could be dismissed but it could be a much simpler reprimand. Department policy states that they could be dismissed.

Representative Steinburg commented that he is struck by how correctional officers are tasked with handling very tough prisoners but are expected to conduct themselves like a priest. Representative Steinburg added that these offenses could go on the permanent record and negatively affect good correctional officers.

Kevin Holsclaw, former correctional officer, shared his experiences working in the prisons.

Ardis Watkins, State Employees Associations, asked the committee to have another public comments meeting so that more officers could make plans to attend.

Colby Crandall spoke and stressed the importance of local reentry councils.

John Schwade, retired prison psychologist, spoke to his experience with inmate mental health.

Representative Boles asked if there had been any conversation with Governor Cooper regarding imposing the death penalty for inmates found guilty of murdering a correctional officer. Reuben Young, Interim Chief Deputy Secretary Adult Corrections and Juvenile Justice, was recognized to answer. He replied that he has not had that conversation with the governor and would not speculate on his position.

Senator Randleman asked about the appointment of the prison reform advisory board and asked if Mr. Young was a member. He replied that he was not a member but did attend the first meeting and will continue to attend. Senator Randleman asked when the board was formed and when were the members appointed. Mr. Young replied that the Secretary called for the board around the end of last year and in the following month members began to be appointed. He replied that the board had met once and would be meeting quarterly.

Representative Stevens asked if there were any members of the General Assembly on the advisory committee. Mr. Young replied that there were none that he was aware of.

Representative Boles clarified that this committee was appointed by the governor, not the General Assembly. Mr. Young clarified that the members were appointed by Secretary Hooks not Governor Cooper.

### **ABC Subcommittee Report**

Without objection from the Committee, Senator Randleman skipped forward in the agenda to subcommittee reports. Senator Randleman recognized Senator Wells for the report from the subcommittee on ABC permitting.

Senator Wells referred the committee to information in their packets regarding several shootings outside of bars in Hickory over the past year. Senator Wells discussed the subcommittee's conversations with ALE, ABC, and local law enforcement concerning how to handle these situations and why these bars can remain open afterward. Working with Rene Metz at ABC the conclusion was that there were statutory changes required to give ABC the authority to take appropriate action after significant events.

Senator Randleman recognized Senator Wells to explain the bill to the committee. Senator Wells explained that the bill had a narrow focus to stop bad actors and was not intended to make broad changes to 18B. Changes included raising the age to own a bar to twenty five and closing a loophole that allowed large ownership groups to operate without a qualifying owner. Senator Wells noted that one change ABC had requested was to reduce the required term for a suspended license from thirty days to three days. At this time ABC was not ready to move forward with this change and requested the bill draft be amended.

Senator Randleman recognized Representative Turner to offer the amendment. Representative Boles asked for clarification on the reasons for the change. Senator Wells clarified that the current thirty day revocation was being challenged but ABC believed a three day revocation would be enforceable. Senator Wells noted that there may be alternatives to explore so the provision in the bill was being removed for now. Senator Randleman recognized Terrance Merriweather, ALE. Mr. Merriweather confirmed that ALE had discussed with ABC and were in agreement with leaving the current thirty day period in place. The motion to adopt the amendment carried.

Senator Wells continued to explain changes in the bill including requiring private clubs to be organized as a 501(c) and to be in operation for twelve months before becoming eligible for an ABC permit. Current private clubs with permits would be grandfathered in. Senator Randleman asked staff to continue to explain the bill and recognized Susan Sitze to review each section.

Representative McNeill was recognized and asked if there were any guidelines on the authority given to ABC to restrict operating hours. Senator Wells explained that ABC does have a grid to reference that considers the seriousness of the offense and the number of previous offenses.

Senator Wells explained that some establishments operate without issue until later in the night when incidents start to happen, ABC needed greater statutory authority to limit the hours of these establishments. Representative McNeill replied that he wanted to make sure there were some standards or guidelines in place so that this provision was applied consistently throughout the state. Agnes Stevens, Deputy Director ABC, was recognized to respond. She responded that Senator Wells was correct and that the commission intended to adopt guidelines that were similar to the penalty guidelines already in place for suspensions and fines.

Representative Faircloth was recognized for a question and referenced that there are several entities that can enforce ABC regulations; ALE, county ABC boards, sheriffs, and local police departments. Representative Faircloth asked Mr. Merriweather to explain how these agencies interact and work together on enforcement. Mr. Merriweather explained that ALE has been working with the Sheriff's Association, the ABC local boards, and local police departments to address bad actors. Representative Faircloth asked about other responsibilities of ALE. Mr. Merriweather replied that there were a lot including tobacco enforcement, lottery issues, gambling enforcement, etc. Representative Faircloth asked if it would be fair to say that ALE has the broadest jurisdiction of any law enforcement agency and Mr. Merriweather agreed. Representative Faircloth asked who Mr. Merriweather reports to. Mr. Merriweather replied that he reports directly to SBI Director Shurmeier and that ALE was placed under SBI jurisdiction by legislative action.

Senator Randleman asked if the ALE had jurisdiction over bingo enforcement, Mr. Merriweather replied that they did. Senator Randleman asked if ALE would also go into sweepstakes parlors even if they did not have an ABC permit. Mr. Merriweather replied that typically a bingo parlor would have a ABC permit but regarding sweepstakes parlors they are typically called in by local sheriffs and police for their expertise.

### **Sexual Assault Evidence Collection Kit Law Enforcement Inventory Report**

Senator Randleman recognized John Byrd, Director NC State Crime Lab for his report. Dr. Byrd gave an overview of sexual assault evidence collection kits (SAECKs); where they come from, what they include, how they are administered, and how they are processed. Dr. Byrd reviewed the legislative directive that required each LEA in the state of North Carolina to conduct an inventory of SAECKs in its custody and report that number to the State Crime Lab. He re-emphasized that these untested kits were identified at local law enforcement agencies not the State Crime Lab. Dr. Byrd continued to review and explain the attached inventory report. Bradford Sneed, Legislative Counsel NC Department of Justice, was recognized to explain the Department's recommendations included in the report. Dr. Byrd continued with a demonstration on how the proposed tracking system would work, and concluded with a discussion of cost and the grant application.

Representative Turner was recognized for a question and asked about testing kits categorized as victim wishing to remain anonymous. Dr. Byrd replied that the need to test these kits would be determined by the recommended select committee. He added that the State Crime Lab is

prepared to test whatever they need to test whether outsourced or internal. Representative Turner asked about kits categorized as other and how the committee could follow up on those. Dr. Byrd replied that the committee would need to establish protocols and work with stakeholders to figure out how to move forward.

Representative Stevens asked about kits where the allegations were determined to be unfounded and if they would be tested. Dr. Byrd replied that it would be up to the committee to make that determination.

Representative McNeill asked about hardware that the hospitals would require to barcode the kits for the tracking system. Dr. Byrd replied that with the system each barcode has a unique number so that agencies without a scanner can just manually enter the number into the system.

Representative Hurley asked about the eight percent of agencies that did not respond to the inventory report. Dr. Byrd explained that the report appendix list all of the agencies in North Carolina, forty six did not respond and he believes they were all very small police departments or private company police.

Senator Randleman asked Kory Goldsmith, Bill Drafting, to read through the provisions and explain the bill. There were no further questions.

### **Enhance Prison Security**

Senator Randleman asked Kory Goldsmith to read through the provisions and explain the bill.

Representative McNeill asked about guards being assaulted and the cases being dismissed by the District Attorney. He asked if there was anything the committee could do the bill to make District Attorneys more likely to act. Susan Sitze replied that the General Assembly has generally allowed for prosecutorial discretion but it would be within the purview of the General Assembly to add language requiring District Attorneys to do certain things for certain acts. That is a policy decision the General Assembly has generally not made in part because District Attorneys are elected officials.

Representative Faircloth asked staff about provisions that the prison system could use administratively to punish an offender without having to send it to court. Susan Sitze replied that they could use separation or modify their custody class. There are guidelines in place regarding what actions they can take but they cannot extend a sentence.

Representative Rogers added that one thing that works with dismissals is with DWIs a District Attorney cannot dismiss the case unless they fill out a long form dismissal. Another possibility would be to treat it like contempt so that it would run consecutively to the current sentence.

Representative McNeill discussed the possibility of adding the long form dismissal in an amendment.

Representative Boles asked if corrections officers were already treated like other law enforcement officers in terms of assault offenses. Susan Sitze replied that they were treated the

same in the statutes. Representative Boles added that other law enforcement officers may need to be added to a potential amendment.

Susan Sitze offered to work with Representative McNeill after the report was made or hold the report until they could work on a modification. Representative McNeill asked if the recommendation could be included in just the report without amending the proposed bill. Susan Sitze replied that her understanding was that there would not be a formal report, only the recommended bills, but that the recommendation could be adopted in the minutes. Kory Goldsmith clarified that any member could modify the bill once it is filled in the short session. Representative McNeill replied that amending the bill later would be fine as long as someone could do so if he was not on the assigned committee. Senator Randleman agreed that someone could do so.

Senator Randleman requested the minutes include a recommendation to the Chairs of the Appropriations on Justice and Public Safety Committee that they include in the budget a requirement that the North Carolina Prison Reform Advisory Board report their findings, conclusions, and recommendations on a quarterly basis to the Joint Oversight Committee on Justice and Public Safety.

Representative Davis moved that the committee recommend bill drafts 2017-tq-36 as amended, 2017-msx-159, and 2017-mn-129 to the 2018 legislative short session of the General Assembly. Seconded by Representative Turner. The motion was adopted.

## **Adjournment**

There being no further business, the meeting adjourned at 4:45pm.

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Senator Shirley B. Randleman

Presiding

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Jeb Kelly, Committee Clerk