

2017.03.3 Legislative Update, "This week in Frankfort" from Mr. Pat Crowley and Chief Wayne Tuner:

Friday, March 3, 2017 marked the end of day 23 of the current 30 day short session. I would like to personally thank each and every one of you who took the time to drop what you were doing and call or email your legislators in Frankfort. This is the best grass roots efforts we can have in regards to moving good bills or killing bad legislation in committee. It was great hearing a legislator say in committee, "I support this bill because my local police chief called me and said this was a good bill and we are 100% behind it". **Thank you KACP President Barnhill!**

The pace in Frankfort continues to be brisk. Following is the status report on the bills KACP is following/supporting/opposing this session. I would also like to highlight that there were over 800 bills filed in the current short session. This was a much greater number of bills than anticipated for this short session. As a point of reference, only about 90 to 100 of these bills will pass both houses and be delivered to the Governor's desk for signature into law. KACP and our Public Safety Working Group partners from KSA, The Kentucky State FOP and KLC will have had a noticeable impact this session.

One quick note on SB226, legislation separating KERS from CERS that was supported by KACP - as well as Sheriff's, KACo, KLC and many others; Governor Bevin held a press conference this week announcing that the bill is being shelved for the session and will be considered during the special legislative session. For more information, read the Herald-Leader coverage:

<http://www.kentucky.com/news/politics-government/article135970518.html>

Here is an excerpt from the story:

"I'm not abandoning you," Sen. Joe Bowen, R-Owensboro, the bill's sponsor, said, addressing members of the county pension system. "I'm supporting you. And the way I'm supporting you is giving this bill more time."

Bevin said the bill will be a priority during the special session he plans to call. He has not yet said when that will happen.

Read more here: <http://www.kentucky.com/news/politics-government/article135970518.html#storylink=cpy>

KACP legislative team will of course continue to follow the development of the bill for the special session, which is expected to be called late summer or more likely early fall, and keep the executive committee and membership up to date. One other note; time is running out in the session. Bills that have not moved from one chamber to the other are likely dead for this session. Monday will be the 24th day of the 30-day session.

Items on the agenda that KACP supports:

HB 14, An act relating to hate crimes (classify an offense against a police officer as a hate crime)

- Passed House; awaiting action on Senate floor

HB 23, An act relating to pawnbrokers (mandates online reporting)
- Passed House; vote expected Tuesday in Senate Licensing, Occupations and Regulations Committee; Chief Turner testified in favor of the bill in the House and may be asked to testify Tuesday.

SB 26, An act relating to operator's license testing.
- No action so far in the Senate; likely dead this session.

SB 31, An act relating to KLEFPF
- Bill continues to move; House has approved, bill awaiting action in the Senate Veterans, Military Affairs and Public Protection Committee, which will next week.

SB 42, An act relating to crimes and punishments (assault 4th on hospital grounds)
- Passed both Chambers, sent to Governor's desk for his signature

HB 60, with HCS1 An act relating KLEFPF.
- House version of the KLEFPF bill; no more action expected as SB31 will be the KLEFPF bill that will be enacted

HB 80, An act relating to criminal attempted murder of a first responder (Blue Lives Matter)
- No movement this session

HB 93, An act relating to police K9s.
- Passed House unanimously Friday, March 3, sent to Governor's desk for his signature

SB 120, An act relating to crimes and punishments.
- Senate has approved; House Judiciary Committee expected to hear and approve Monday evening. Bill then heads to House floor.

HB 213, An act relating to crimes and punishments (assault 4th on hospital grounds)
- House version of SB 42, which is the version of the bill that will be enacted

SB 226, An act relating to retirement (separate CERS / KRS)
- See earlier note; bill dead for this session

HB 333, An act relating to controlled substances.
- Passed House 98-1; awaiting action in Senate Judiciary Committee

HB 337, An act relating to employment contracts for local LEA (not to be prorated)
- Passed House 95-0; awaiting action in Senate State & Local Govt Committee

HB 352, drug testing.
- No action expected

HB 416, An act relating to the disclosure of body worn camera recordings
- Awaiting action in House Local Govt Committee; unclear if bill will be heard and enacted this session. Chief Turner was quoted in a story on the bill from WDRB in Louisville
<http://www.wdrb.com/story/34636619/kentucky-bill-would-shield-most-police-body-camera-videos-from-public-view>

HB 417, An act relating to interference with an authorized individuals right to concealed carry.
-Bill has not been heard in House Judiciary Committee and is not the committee's agenda for its Monday meeting. Passage unlikely this session.

HB 451, An act relating to KLEFPF
- No action this session

HB 482, An act relating to law enforcement training in other states.
- Unanimously passed out of committee; awaiting action in the House

HB 501, An act relating to sanctuary cities and universities.
- No action is expected this session / *which should be good news for Chief Gregory!*

Items that KACP list or will shortly list as opposed:

SB 7, An act relating to firearms (concealed Carry without a license)
- No action expected this session

HB 279, An act relating to constables who complete training
- No action this session

HB 285, An act relating to Peace Officers (Repeal KRS 237.137)
- No action this session

HB 316, An act relating to concealed Carry without a license (House version of SB 7)
- No action this session

HB 389, An act relating to Autism training for first responders.
- No action this session

HB 408, An act relating to child pornography
- Awaiting action in the House

HB 249, An act relating to public protection.
- No action expected this session

Other bills that passed both houses were: DUI 'look back' bill heads to Senate

Getting a DUI in Kentucky every 10 years is like getting a DUI for the first time in the eyes of the law, the result of a Kentucky 'look back' law that treats a DUI conviction handed down at least 10 years after a person's last conviction as a first offense. That would change under House Bill 261 approved thursday by the Kentucky House which would only allow DUI offenders to receive the more lenient first offense DUI conviction once in their lifetime.

HB 261 sponsor Rep. Jim DuPlessis, R-Elizabethtown, said his legislation "is a common sense bill" that would save lives by limiting the amount of drunk drivers on Kentucky's roads. Under HB 261 "You get one first offense in your lifetime. After that, it's at least number 2," DuPlessis told the House, which approved the bill 94-0. The bill was amended before it was passed to clarify that it would not be applied retroactively. It was also amended to allow first offense DUI cases to be expunged 10 years after the date of the offense for employment purposes.

Rep. McKenzie Cantrell, D-Louisville, said she was concerned about how expungement could affect state judges' ability to do their jobs and asked if they would have access to information, if needed, for penalty enhancement or other purposes. DuPlessis said that they would. "The record will be expunged but it will still be there for the court to see," he said. "The bill doesn't seek to tell judges how to inform their defendants. But it seeks to be very clear, very clear as to what the penalty phases will or will not be." HB 261, which is also sponsored by Rep. Robert Benvenuti, R-Lexington, now goes to the Senate.

The Kentucky House OKs strong penalties for those dealing in opioids

With one lawmaker calling it a crisis starting "in our medicine cabinets," the Kentucky House today voted 96-1 to pass a bill that would fight Kentucky's opioid addiction epidemic by limiting the amount of opioids pain killers prescribed and increasing jail time for those who deal opioids on the streets. Rep. James Kay, D-Versailles, praised provisions in House Bill 333 that would limit prescriptions for addictive opioid pain killers like oxycodone, fentanyl and morphine to a three day supply, with exceptions for the terminally-ill and some others. Addiction, Kay said, usually begins at home with a 30-day prescription to prescription opioids like Percocet or Lortab—not by buying drugs on the street.

"This pill problem is starting in our medicine cabinets, and we've got to get it under control," he said. "Unfortunately in many, many cases we're not going to stop addiction from happening. But we can stop it from happening in our medicine cabinets. We can stop it from happening in our homes."

HB 333, sponsored by Rep. Kim Moser, R-Taylor Mill, would also increase felony penalties for those who illegally deal in the synthetic opioid pain killer fentanyl and make it a felony to deal in drugs derived from fentanyl as well as carfentanil, which is used as an elephant tranquilizer. Trafficking in any amount of fentanyl, its derivatives or carfentanil would carry up to 10 years for a first offense, with longer sentences for repeat offenders and those who deal over certain amounts of the drugs.

REP Moser said these are just a few steps that HB 333 would take to solve what she called the "opioid and addiction crisis" in Kentucky. "We continue to see increases in overdoses and deaths

due to heroin and other opiates,” said Moser. She cited data from the Centers for Disease Control and Prevention that shows over 52,000 drug overdose deaths in the U.S. in 2015. “Sixty three percent, or 33,091 of those deaths involved an opioid.” “If Kentucky is, in fact, the epicenter of this crisis, we must be leaders in addressing this crisis head-on,” she said.

HB 333 would also make it a felony carrying up to 10 years in prison to illegally bring any amount of fentanyl or its derivatives or carfentanil into the state for sale or distribution. And it would create the felony offense of “trafficking in a misrepresented controlled substance” for those who try to pass off fentanyl, its derivatives or carfentanil as a legitimate prescription drug.

While state law now has strong penalties for selling heroin, HB 333 would ease penalties for those found guilty of selling a small amount—under two grams—of heroin if a court finds the defendant had a substance use disorder involving heroin when the crime was committed. Those individuals would face one to five years in prison instead of five to 10 years for others convicted of a first offense (with higher penalties for repeat offenders).

Finally, the bill would exclude cannabidiol, or CBD, products from the definition of marijuana under state law if the products are approved as a prescription medication by the U.S. Food and Drug Administration. Cannabidiol is a cannabis compound that is believed by many to have medical benefits, although it has not yet been FDA-approved.

“This is only when and if they become FDA-approved. These are hemp derivatives—it’s not marijuana—and again, they must be FDA-approved,” said Moser. “Upon FDA approval, cannabidiol products would not be allowed as prescriptions if we don’t change this language.” HB 333 now goes to the Senate.

Senate OKs bill to make military surplus vehicles street legal

The Senate on Wednesday approved a bill that would make it possible for Kentuckians to receive a title and license for certain military surplus vehicles like Humvees. Senate Bill 176, sponsored by Sen. Stephen West, would give citizens who purchase military surplus vehicles a way to make them street legal by outlining a framework for the state to follow when licensing and titling the vehicles.

“It requires the Transportation Cabinet to create a new inspection form for military surplus vehicles since a vehicle must be inspected prior to titling,” said West, R-Paris. “In order to get a title, the vehicles would have to be retrofitted with all the appropriate equipment – safety harnesses, et cetera – to meet the federal regulatory guidelines.”

Prior to passing the bill, senators approved an amendment that removed a specification in the legislation would have limited it to four-wheeled vehicles. West said the amendment was the result of the realization that it would be helpful to expand the legislation to cover larger trucks that can be used for agriculture and other purposes. The bill was approved by the Senate on a 37-0 vote. It now goes to the House of Representatives for consideration.

Gang violence prevention bill passes state House, 91-3

Children ages 11 and 12 and even younger are being recruited by criminal gangs in Kentucky, Rep. Robert Benvenuti told the state House today as he explained his bill to crack down on gangs and gang violence. “It’s about protecting children who are extremely vulnerable in our Commonwealth. Because if you’re dead, there’s nowhere else for you to go. It’s over,” Benvenuti, R-Lexington, an attorney and former Inspector General of the Cabinet for Health and Family Services, said before the House voted 91-3 to pass House Bill 315.

The bill now goes to the Senate for consideration. HB 315 would use many approaches to rout out criminal gang activity including felony penalties for criminal gang recruitment, with stiffer penalties for adults 18 and older who recruit children under age 15 to join gangs and require children who do join to commit a crime, said Benvenuti. Anyone, he said, of any age, who intentionally encourages someone to join a criminal gang would face misdemeanor or felony charges for repeat offenses.

The bill would also set minimum sentencing requirements for certain misdemeanors committed by criminal gang members if the defendant is found “beyond a reasonable doubt” to have been a gang member when the crime was committed, he said. Those convicted of a felony that endangered the safety of the public and was committed by a criminal gang member would also face stronger penalties and be required to serve at least 85 percent of their sentence, with some exceptions for juveniles.

Rep. McKenzie Cantrell, D-Louisville, an attorney, said there are some low-level misdemeanors in the bill that would bring stiffer penalties if committed in connection with criminal gang activity. (Some of the misdemeanors listed include fourth-degree assault, menacing, and second-degree wanton endangerment.) When asked why they were included, Benvenuti said those misdemeanors are considered by law enforcement to be most often associated with gang crime. “These would be the most effective in stopping that low-level criminal gang activity,” he told Cantrell.

Remaining provisions of the bill would levy stricter sentencing requirements for members of criminal gang syndicates (defined as three or more people acting as a criminal gang), allow the courts to hold hearings to determine if someone arrested for a gang-related offense was a member of a criminal gang or acting in a gang’s interest at the time of the crime, and give victims of criminal gang activity the ability to sue for damages.

Rep. Joni Jenkins, D-Shively, said while there is no “perfect bill” to address problems like those HB 315 attempts to address, the bill is “a step in giving tools to law enforcement to intervene in young lives.” She said she hopes the General Assembly will also consider increasing funding for other tools that can be used in the fight against crimes, tools that she said include local school-based Family Resource and Youth Services Centers (FRYSCs) and “wraparound services” for families that improve quality of life. HB 315 contains an emergency clause, which would make the provisions in the bill effective immediately after the bill is signed by the governor or otherwise becomes law.

We have about 3 more working days next week to either play offense or defense as the remaining legislative session goes into the final minutes of the fourth quarter. Thank you again to those who have repeatedly responded to our calls for action!

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Wayne Turner".

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