

## MINUTES OF ARKANSAS CODE REVISION COMMISSION MEETING – EXHIBIT B

**Tuesday, July 18, 2023**

**2:00 P.M.**

**Room B, MAC Little Rock, Arkansas**

Commission members and others present: Speaker Matthew Shepherd, Chair; Senator Clarke Tucker; Representative Joshua Bryant; Representative Jimmy Gazaway; Commissioner Robert F. Thompson; Commissioner Camille Bennett; Commissioner Vaughan Hankins; Commissioner Colin Crawford, Dean, University of Arkansas at Little Rock; Ryan Owsley, Deputy Attorney General; Kevin Koon, Arkansas Code Revisor; Matthew Miller, Assistant Director for Legal Services of the Bureau of Legislative Research; Tawnie Rowell, Director for Arkansas Sentencing Commission; Daniel Shults, Director of the State Board of Election Commissioners; Courtney Salas-Ford, Counsel, Dept. of Education; Lindsey French, Assoc. of AR Counties.

Chair Shepherd called the meeting to order.

### **Minutes of the June 13, 2023, Meeting – Item B/Exhibit B**

**Ms. Bennett moved to approve the Minutes, and Mr. Hankins seconded the motion. The motion was adopted.**

### **Continuation of Discussion of Issues Related to the Implementation of the Protect Arkansas Act Identified by the Arkansas Sentencing Commission – Item C/Exhibit C**

Chair Shepherd recognized Mr. Koon to continue the discussion of issues related to the implementation of the Protect Arkansas Act. Mr. Koon introduced Item C2, concerning the use of the word “no” on Page 20, Line 14, of the Protect Arkansas Act. Mr. Koon also introduced Ms. Tawnie Rowell, Director of the Arkansas Sentencing Commission, and Chair Shepherd recognized Ms. Rowell to speak on the item. Ms. Rowell indicated that “more than” is more grammatically appropriate. Chair Shepherd stated that the change would be to strike “no” before “more than” on Page 20, Line 14.

**Senator Bryant moved to strike “no” from Page 20, Line 14, of the Protect Arkansas Act, and Mr. Hankins seconded the motion. The motion was adopted.**

Ms. Rowell introduced Item C4, concerning preliminary hearings and revocation hearings in § 16-93-1908(e) on Page 24, Line 25, of the Protect Arkansas Act. There was discussion concerning the differences between preliminary hearings and revocation hearings. After the discussion, Chair Shepherd stated that the recommendation was to change “preliminary” to “revocation” on Page 24, Line 25, of the Protect Arkansas Act.

**Mr. Hankins moved to change “preliminary” to “revocation” on Page 24, Line 25, of the Protect Arkansas Act, and Senator Bryant seconded the motion. The motion was adopted.**

Ms. Rowell introduced Item C5, concerning the effect of the Protect Arkansas Act on § 16-90-120, dealing with felony offenses committed with a firearm. There was discussion concerning whether effective date language was needed in § 16-90-120. There was further discussion of the use of the words “committed”, “convicted”, and “sentenced” in § 16-90-120, and the substantive effects of this terminology.

**Chair Shepherd recommended that Representative Gazaway consult with the Attorney General’s office and other interested parties on any needed changes to § 16-90-120 and that the commission take up Item**

**C5 at a later meeting. No other action was taken.**

**Discussion of Codification of Arkansas Code § 4-106-201 – Item E/Exhibit E**

Speaker Shepherd recognized Senator Tucker to explain Item E, concerning codification of § 4-106-201. Senator Tucker explained that Acts 2005, No. 875, on Page 3, Line 18, used “or”, but the word was codified as “and” in the Arkansas Code. Senator Tucker further explained that Bureau staff looked into the matter and cannot reconstruct the logic for why it was changed from “or” to “and”. Mr. Miller was recognized and he confirmed Senator Tucker’s comments and stated that the commission had authority to change the word back to “or”. Mr. Owsley was recognized and he asked if there would be any notations or records in the Arkansas Code concerning the change. Mr. Koon said that there will be an ACRC note at the section that indicates the change the commission made. Mr. Hankins asked if it would be noted that it was an error and Mr. Koon answered that it will be noted that there was an error in the codification process.

**Senator Tucker moved to change “and” to “or” at the end of § 4-106-201(7)(B), and Representative Gazaway seconded the motion. The motion was adopted.**

**Discussion of Codification of Arkansas Code § 16-56-106 – Item F/Exhibit F**

Speaker Shepherd recognized Senator Tucker to present Item F. Senator Tucker explained that there was a bill that was introduced in Congress that would change federal law so that medical debt could not be recovered until two years after the debt had been incurred. Senator Tucker further explained that in 2021 the General Assembly adopted legislation amending § 16-56-106 contingent on the bill in Congress becoming law that would extend the statute of limitations for recovery of medical debt in Arkansas to five years. Senator Tucker then explained how § 16-56-106 was codified in the supplement, bound volume, and online version, and questioned whether the contingent version of the law should be in a note rather than set out as a separate section. Mr. Koon explained the process for codifying contingent sections and the practice the commission had followed in the past. Mr. Miller explained that there was an error in the Lexis online version and that the non-contingent version of § 16-56-106 was omitted. Mr. Miller stated that the Bureau would be contacting Lexis to correct this error. There was also discussion concerning other contingent sections in the Arkansas Code and the process for identifying them and locating potential issues.

**Senator Tucker moved to codify both versions of § 16-56-106 in the supplement and for Bureau staff to compile a list of other contingent sections in the Arkansas Code, and Representative Gazaway seconded the motion. The motion was adopted.**

**Continuation of Discussion of Conflicts and Issues in 2023 Acts – Item D/Exhibit D**

Chair Shepherd recognized Mr. Koon to discuss the continuation of discussion of conflicts and issues in 2023 acts that were held over from the last meeting. Mr. Koon introduced Item B3, concerning Act No. 442, § 9, and explained that it created a new § 23-55-611(b) that appears to be improperly subdivided. Mr. Koon stated that it appeared subdivision (b)(2) should be part of the list in subdivision (b)(1). Mr. Miller stated the Securities Commission said that subdivision (b)(2) should be part of the list in subdivision (b)(1) and Representative Maddox, the sponsor, was in agreement with whatever the Securities Commission said. Chair Shepherd asked the commission to hold action on Item B3 until all items had been presented.

Mr. Koon then introduced Item B4, concerning Act No. 442, § 11, and explained that it amends § 23-55-702 and appears to omit a verb from subdivision (b)(2)(A) and create a hanging subdivision (b)(6). Mr. Koon stated that there seems to be language missing from the “if” clause in order for it to make sense. Mr. Miller stated that Representative Maddox put him in touch with the Securities Commission and they made two suggestions: they suggested replacing “if” with “in the event of” or with “upon”. Mr. Miller also stated that the Securities Commission concurred that subdivision (b)(6) on Page 23, Lines 28-30, was intended to be with the list in subsection (a).

**Ms. Bennett moved to change “if” to “upon” for Item B4, and Mr. Hankins seconded the motion. The motion was adopted.**

**Senator Tucker moved to change subdivision (b)(6) to subdivision (a)(6) for Item B4, and Ms. Bennett seconded the motion. The motion was adopted.**

Mr. Koon then introduced Item B8, concerning Act No. 596, § 1, which creates a new § 4-56-107(d)(4)(A) with an apparent grammatical error that obscures its meaning. Mr. Koon explained that it appears the language “does not require . . . from compliance with” should have been “does not prohibit . . . from complying with”. Mr. Miller stated he spoke with the sponsors, Representative Lundstrum and Senator Dismang, and Representative Lundstrum was fine with changing it to “does not prohibit . . . from complying with” and that Senator Dismang thought it was the appropriate change as well. Chair Shepherd asked the commission to hold action on Item B8 until all items had been presented.

Mr. Koon then introduced Item B10, concerning Act No. 701, § 1, which creates a new § 23-3-117(a)(2)(C)(i) that appears to be missing a verb. Mr. Miller and Mr. Koon stated that the sponsor, Senator McKee, said the missing verb should have been “shall”. Mr. Miller and Mr. Koon stated there was a grammatical error due to the missing verb and the recommendation based on the sponsor’s intent was “shall”. Chair Shepherd asked the commission to hold action on Item B10 until all items had been presented.

Mr. Koon then introduced Item B11, concerning Act No. 787, § 1, and Act No. 841, § 44, which create a new § 6-21-121 requiring schools to keep exterior doors locked and a new § 20-22-1011 requiring the State Fire Marshal to require teachers at schools to keep all doors and exits unlocked. Chair Shepherd stated that this appeared to be an issue the commission should leave alone and that it should be addressed by substantive legislation. There was further discussion concerning the two sections and how they may interact. Ms. Courtney Salas-Ford, Chief of Staff, Department of Education, was recognized, and she stated that their initial request would be to codify both sections. Representative Gazaway, Senator Bryant, and Senator Tucker stated that they thought the sections could be read together and both should be codified. Chair Shepherd indicated that the recommended action would be to codify both sections, and he asked the Department of Education to take a look at this issue for further action.

Mr. Koon then introduced Item B12, concerning Act No. 850, § 1, which omits "open-enrollment public charter school" from § 6-17-2403(e)(2) and the introductory language of (f)(2). Mr. Miller stated he spoke to the sponsor, Representative Hodges, and the sponsor’s preference was that the language be added in there. There was discussion that the Department of Education interprets “public school district” to include open-enrollment public charter schools. Chair Shepherd asked the commission to hold action on adding the language identified in Item B12 until all items had been presented.

Mr. Koon then introduced Item D1, concerning Act No. 350, which amends §§ 7-5-601, 7-5-602, 7-5-603, and 7-5-701, and Act No. 743, which amends §§ 7-5-601, 7-5-602, and 7-5-603, dealing with paper ballots. Ms. Lindsey French with the Association of Arkansas Counties was recognized. Ms. French stated that she thought §§ 4 – 6 of Act No. 350 were not in direct conflict with Act No. 743 and could be kept. She explained that the portion of Act No. 350, § 3, amending § 7-5-603(3)(A) could be incorporated into what would be § 7-5-603(4)(A) due to redesignation by Act No. 743. There was discussion that the irreconcilable portions of Act No. 350 would yield to Act No. 743. Chair Shepherd summarized that the recommendation would be that Act No. 350, Page 2, Lines 34 – 35, and §§ 5 and 6 would be kept.

Mr. Koon then introduced Item D2, concerning Act No. 444, § 6, and Act No. 460, § 1, which amend § 7-5-615(d), concerning duplication of damaged paper ballots. Mr. Daniel Shults, Director of the State Board of Election Commissioners, was recognized. Mr. Shults explained the proposed reconciliation of the two acts that were included in Exhibit D as Item D2. Chair Shepherd asked the commission to hold action on adopting the recommendation for Item D2 until all items had been presented.

**Representative Gazaway moved to adopt the recommendations for Items B3, B8, B10, B11, B12, D1, and D2, and Ms. Bennett seconded the motion. The motion was adopted.**

Chair Shepherd recognized Mr. Koon, and Mr. Koon introduced Item H5, concerning Act No. 688, § 18, and Act No. 270, § 1. Mr. Koon explained that Act No. 688 repeals § 17-26-707, and Act No. 270, a commission technical correction act, amended § 17-26-707, and that Act No. 270 has a provision that it is superseded by a conflicting act.

**Representative Gazaway moved to adopt the recommendation for Item H5, and Senator Tucker seconded the motion. The motion was adopted.**

**Discussion of Arkansas Code § 1-2-207 – Item G/Exhibit G**

Chair Shepherd recognized Mr. Koon. Mr. Koon introduced Item G and stated that there was a request at the last commission meeting for us to discuss the process of reconcilability and irreconcilability of two or more acts amending the same code sections or addressing the same subject matter. Mr. Koon explained the process for reconciliation and determining irreconcilability under § 1-2-207 and indicated Arkansas was in-line with other states on how it resolved these conflicts.

**The commission took no action on this item.**

**H. Report of Code Revisor**

Chair Shepherd recognized Mr. Koon to provide his report. Mr. Koon informed the commission that staff was currently working on the supplements and had returned 43 to the publisher. Mr. Koon indicated that he expected the supplement process to be completed by the end of the next week and the supplements to be published in early September. Mr. Koon then explained that Act No. 441 amended Amendment 51 to the Arkansas Constitution and created a technical issue with punctuation and a connector for two lists in Amendment 51. Mr. Koon further explained that it appeared the commission did not have authority under § 1-2-308 to resolve these issues, but they could be addressed by a technical corrections bill in the next regular session.

**The commission took no action on this item.**

**Chair Shepherd, with no further business before the Commission, adjourned the meeting.**