

Family Law Commission Minutes – Public Hearing of January 21, 2016
Senate Chamber, Legislative Hall, Dover, Delaware

Members Present

Curtis Bounds, Esq., Chair
Ms. Lynn Kokjohn
Ms. Raetta McCall
Dr. M. Diana Metzger
Mr. James Morning
Rep. Michael Ramone
Mr. Lawrence “Britt” Davis

Staff Members

Dick Carter, staff
Sarah Meyer, staff

Meeting Summary

Chairman Bounds called a brief business meeting prior to the public hearing to order at 7:00 p.m. The minutes of the November 19 , 2015, meeting were approved.

Mr. Bounds proposed the following dates for the Family Law Commission to meet during 2016: March 17, April 14; May 12; Sept. 15 and Nov. 17. All are on Thursday mornings and all meetings will be held from 9:30 until 11:30 a.m. The Commission voted to approve the schedule as proposed. Mr. Bounds noted that Family Court Chief Judge Michael Newell has been invited to make a presentation at one meeting. The date for his appearance will be announced at a later time.

At 7:20 p.m., the public hearing portion of the meeting began. Five members of the public spoke: Mariann Kenville-Moore of the Delaware Coalition Against Domestic Violence; Martin Nicholson; Cynthia Smith; Timothy Collins; and Joseph MeMaio.

Ms. Kenville-Moore, former co-chair of the Blue Ribbon Task Force on Open Family Court Proceedings, spoke about Senate Bill 119, which reflects the findings and recommendations of the task force. She emphasized the need for improvements in court procedures regarding pro se litigants (litigants not represented by an attorney), noting that some 80 percent of those who come to Family Court represent

themselves. She said that the community does not have adequate access to the court process and advocated educating court personnel as to how to better serve the needs of the public.

Mr. Nicholson spoke on the subject of Protection From Abuse orders (PFAs) and false allegations made by those who are seeking PFAs. He said that he is tired of what he claims is inactivity on the part of court officials regarding the problem of false allegations. He said that the system is designed to make more revenue for the court and advocated greater accountability for those making such allegations.

Ms. Smith introduced herself as the mother of three daughters and said that in the past 10 years she has spoken repeatedly about her personal experiences in Family Court, addressing false allegations and advocating greater transparency of court proceedings. She was critical of some family practice attorneys and some of what she referred to as “their therapy vendors” for operating “smear campaigns,” including those in which the sanity of the opposing litigant is questioned. She urged that the court keep to “the real issues,” which she said are maternal/paternal deprivation, fraud against the court, and greater oversight and accountability for judges and for child psychologists and counselors. Ms. Smith presented written copies of her remarks, together with a copy of her testimony before the Blue Ribbon Task Force on Open Family Court Proceedings, made on December 10, 2013.

Mr. Collins advocated changes in the existing state law governing circumstances in which a convicted sex offender may be allowed unsupervised visitation, custody, or having a child reside with the person. The law in question is Section 724A, Chapter 7A, of Title 13, the “Child Protection from Domestic Violence and Sex Offenders Act.” Mr. Collins stated that although he has not committed a new sexual offense under the provisions of the statute, “the courts determined that terroristic threatening in the misdemeanor category (of which he was convicted) was to be considered a ‘criminal act of violence,’ when, in fact, terroristic threatening in the felony category is not considered a criminal act of violence.” He argued that by defining misdemeanor terroristic threatening as a “criminal act of violence,” the courts have made it impossible for him to ever see his son. He also stated that “I never abused my child, nor neglected my child,” but that, as a result of this law his parental rights were terminated.

Mr. DeMaio said that he has spent 6 ½ years in the family court system fighting for visitation rights to his daughter, who is now 7 ½ years old. He said that he has paid upwards of \$50,000 in attorney’s fees and, for the past 2 ½ years, has had a pro bono attorney. He spoke about perceived problems with the system of issuing Protection From Abuse orders. He charged that the court does not take adequate precautions to guard against persons who abuse the law by making false allegations. He said that he originally went to court as a pro se litigant to work out the details of child visitation and was given reasonable terms. 28 days later, he was notified that a PFA order had been issued against him. He said

that although he was innocent of the allegations made against him, “the fact is that you are guilty until proven innocent.”

Following statements by the speakers, Rep. Michael Ramone asked if it would be possible to have persons who work directly with the PFA process speak to the Commission. Mr. Bounds said that he knows two people who are involved in the process and would approach them about speaking at a future meeting of the Commission.

The meeting was adjourned at approximately 8:15 p.m.

Upcoming meetings:

April 14, 2016, 9:30-11:30 a.m., Senate Hearing Room, Second Floor, Legislative Hall

May 12, 2016, 9:30-11:30 a.m., Senate Majority Caucus Room, First Floor, Legislative Hall

Sept. 15; 2016, 9:30-11:30 a.m., Senate Hearing Room, Second Floor, Legislative Hall

Nov. 17, 2016, 9:30-11:30 a.m., Senate Hearing Room, Second Floor, Legislative Hall