

**Family Law Commission Minutes – Meeting of April 14, 2016**  
*Senate Hearing Room, 2<sup>nd</sup> Floor, Legislative Hall, Dover, Delaware*

Members Present

Curtis Bounds, Esq., Chair  
Rep. Stephanie Bolden  
Rep. Michael Ramone  
Sen. Bruce Ennis  
Judge William Walls  
Ms. Lynn Kokjohn  
Ms. Raetta McCall  
Mr. James Morning  
Dr. Diana Metzger  
Dr. Twain Gonzales

Staff Members

Dick Carter, staff  
Sarah Meyer, staff

Others Present

Kara Swasey, Esq.  
Ms. Lisa Workman  
Mr. John Flaherty

Meeting Summary

Chairman Bounds called the meeting to order at 9:40 a.m. The minutes of the March 17, 2016 meeting were approved as corrected.

**Discussion S.B. 119 and letter from Patrick Boyer, Esq., etal:**

The Commission discussed a letter which had been submitted to the House Judiciary Committee in advance of its January 20 hearing on Senate Bill 119 (relating to public access to Family Court proceedings) by Patrick Boyer, Esq., of MacElree & Harvey, Ltd., and 11 other family law attorneys raising concerns about some of the bill's provisions. It was determined that Mr. Boyer should be invited to speak to the Family Law Commission regarding his concerns at one of its meetings in the autumn of 2016.

Commission members also suggested that there is need to arrive at a compromise between those who favor SB 119 and those who oppose it. Mr. Bounds noted that one thing

causing some opposition to the bill is the serious space shortages which presently exist in both the Kent and Sussex County Family Court facilities. Rep. Ramone suggested that one possible point of compromise might be to amend the bill to say that its provisions will not take effect until new court facilities are completed in both Kent and Sussex Counties.

It was decided to ask FLC Member Lynn Kokjohn, who served as co-chair of the 2013-2014 Task Force on Public Access to Family Court Proceedings, and her fellow co-chair, Ms. Mariann Kenville Moore, to meet with Judge Michael Newell, Chief Judge of the Family Court, in an effort to work out differences on the legislation. Mrs. Kokjohn agreed to do so.

**Other Pending Family Law Legislation:**

The Commission discussed a number of other bills now before the General Assembly which touch on various aspects of family law.

**Senate Bill 55:** Mr. Bounds discussed SB 55, which would amend the Protection From Abuse (PFA) statute of the Delaware Code.

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE FAMILY COURT OF THE STATE OF DELAWARE.

*Synopsis:*

*This Bill extends the number of days for an emergency ex parte order from 10 days to 15 days. Currently, an ex parte order is issued and a full hearing is scheduled within 10 days. This can be insufficient time to effectuate service of the order and petition on the respondent. If respondent has not been served, the hearing is rescheduled and the petitioner must return to court the following week. Scheduling the hearings within 15 days will allow more time for service on the respondent, and afford more time for the parties to prepare for the hearing. The amendment also extends the time to 15 days for an expedited emergency hearing when there has not been an ex parte order issued.*

It was noted that the bill passed the Senate on April 13. Mr. Bounds said that while the bill will solve one problem, it will create another, namely, that parents may be separated from children for a longer period of time. He expressed the opinion that if the present 10 days for an emergency ex parte order is extended to 15 days under the PFA statute, the time period for emergency ex parte orders for custody proceedings should also be extended, so that there will not

be an incentive for litigants to go the PFA route over the emergency custody route. Judge Walls agreed that the time period should be consistent for both types of proceedings. Rep. Ramone said that he will look into the possibility of amending the legislation on the house side.

Senate Bill 209: AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO FAMILY COURT OF THE STATE OF DELAWARE AND DOMESTIC VIOLENCE

*Synopsis: This bill clarifies that treatment required for participants in the domestic violence first offenders program must be domestic violence treatment with a Domestic Violence Coordinating Council-certified treatment provider.*

A question was raised about what happens with similar programs in other states.

**Discussion about special evening event in September to focus on Protection From Abuse orders and the problem with false allegations.**

There was discussion about holding an evening event at Legislative Hall to focus on the Protection from Abuse statute and its alleged misuse, with invited speakers from both sides of the issue, i.e., those who feel that PFAs are an important tool for use in preventing domestic abuse and those who allege that there are numerous instances of litigants using false allegations to obtain PFAs, the issuance of which can then be helpful to their side in ongoing custody disputes.

Rep. Ramone emphasized the importance of having a balanced discussion, fairly representing both sides. He expressed a hope that most of the meeting can be used to address problem areas. It was also noted that “we should hear from Family Court commissioners, because they deal with PFA cases.”

One speaker on the subject was quoted, “Women want protection from abuse, but not the wedge between spouses that the system creates. People love each other.”

Ms. McCall noted that people want to see the Family Law Commission work on finding some sort of solution to these problems. Mr. Bounds replied that bringing together constituencies that do not normally talk to each other is getting something done.

A tentative date of Thursday evening, September 15, was set for the special meeting of the FLC. It was suggested that members come to the May 12 meeting prepared to discuss a list of who should be formally invited to participate, and that a detailed agenda should be prepared well in advance.

### **Discussion of Commission Vacancies:**

A memorandum was circulated to members setting forth the requirements for Family Law Commission membership and the existing vacancies on the Commission. At present, the following are needed:

One attorney, licensed to practice law in the State of Delaware

One pediatrician, or at least a medical doctor licensed to practice in Delaware

One citizen member from Kent

One citizen member from elsewhere

Mr. Carter has been in communication with the President Pro Tempore of the Senate and the Speaker of the House about the filling of these vacancies.

### **Comments from members of the public:**

Ms. Lisa Workman spoke, saying that she has been involved in Family Court proceedings for over a decade. She said that she agrees with Senate Bill 55, and that the present 10-day period was not enough time for litigants to adequately prepare themselves, noting that “it is almost impossible to get a lawyer fast enough under the present time limit. That is why SB 55 is so important.”

She also addressed the PFA issue, saying that if a permanent order is issued, it can go on for a year and a half. She also said that while there is clear evidence of false allegations in some PFA cases, these do not outweigh genuine domestic violence cases.

She also agreed with a statement by a Commission member that it is helpful to have a police officer serve as a member of the Family Law Commission.

**The meeting was adjourned at approximately 11:40 a.m.**

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Upcoming meetings:

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

Sept. 15; 2016: The decision has been made to hold a special evening meeting at Legislative Hall on the subject of Protection From Abuse orders and their possible abuse. Further details of time and location within Legislative Hall will be released as soon as possible.

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