

DRAFT Family Law Commission Minutes – Meeting of Nov. 17, 2016
Senate Hearing Room, Second Floor, Legislative Hall, Dover, Delaware

NOTE: These minutes are in draft form and have not yet been approved by the Commission. As such, they are subject to possible change.

Members Present

Curtis Bounds, Esq., Chair
Sen. Bruce Ennis
Sen. David Lawson
Rep. Michael Ramone
Dr. Diana Metzger
Ms. Raetta McCall
Mr. James Morning

Staff Members

Dick Carter, Senate staff
Sarah Meyer, Senate staff

Others Present

Aimee String, Esq.
Patrick Withrow

Meeting Summary

Chairman Bounds called the meeting to order at 9:30 a.m. Minutes of the Commission meetings of May 12, 2016, and Sept. 15, 2016 were approved as corrected.

Remarks about Sept. 15 meeting:

Commission member Raetta McCall was very complimentary about the evening meeting held on Sept. 15, which focused on the procedures for obtaining Protection from Abuse orders, the problem of false allegations and the alleged use of false allegations in Protection from Abuse proceedings as a strategy for seeking advantage in child custody proceedings, and the difficulties of prosecuting those who make false allegations for perjury.

Family Law Commission appointments and possible updates to enabling statute:

It was noted by Chairman Bounds that terms of several members of the Family Law Commission, who are jointly appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, have expired and that new appointments are needed. He said that as part of this process, it might be desirable to ask the General Assembly to update the Family Law Commission enabling statute with some new wording to reflect changes since the statute was originally enacted. Among the possible changes would be:

- Changing the existing requirements for one pediatrician and one family practice physician licensed to practice in the State of Delaware, to include language such as “or other qualified medical professional.”
- Broadening the requirement for “one judge from the Family Court of the State of Delaware” to include court commissioners or judicial officers as well. It was also suggested that it might be appropriate to allow retired judges to serve.
- Adding, under six interested citizens, two citizens from New Castle County, as well as two from Kent and Sussex. This was apparently an oversight in the original wording.
- Updating the language calling for “one child psychologist” to “one clinical psychologist.” In this regard, the view was expressed that an adult psychologist might be better equipped to deal with some of the matters the Commission considers than a child psychologist.
- It was also suggested that it might be helpful to include a business owner.

(See copy of Family Law Commission statute attached to these minutes)

Discussion of former practice of having Commission members review Family Court litigants’ files:

Ms. McCall suggested the possibility of having Family Law Commission members review litigants’ files. She said that “around 2005 or 2006,” the Commission did this. She advocates forming a panel of Commission members to review judicial decisions on a random basis.

Proposed Meeting Schedule for 2017:

The following meeting dates for 2017 were discussed:

- Annual Public Hearing – Thursday evening, February 16, 2017 at 7:00 p.m. in the Senate Chamber at Legislative Hall.
- March Meeting – Thursday morning, March 16, 2017, from 9:30 to 11:30 a.m., in the Senate Hearing Room, 2nd floor, Legislative Hall.
- April Meeting – Thursday morning, April 20, 2017, from 9:30 to 11:30 a.m., in the Senate Hearing Room, 2nd floor, Legislative Hall.
- May Meeting – Thursday morning, May 18, 2017, from 9:30 to 11:30 a.m., in the Senate Hearing Room, 2nd floor, Legislative Hall.
- September Meeting – Thursday evening, Sept. 21, 2017, from 9:30 to 11:30 a.m., in the Senate Hearing Room, 2nd floor, Legislative Hall.
- November Meeting – Thursday morning, November 16, 2017, from 9:30 to 11:30 a.m., in the Senate Hearing Room, 2nd floor, Legislative Hall.

Review of domestic relations laws of the state during 2017:

Chairman Bounds said that he would like the Commission to spend some time reviewing and evaluating the domestic relations laws of the State of Delaware, to look at the changes that have been made to Delaware Family Law since it was first enacted in 1971. He noted that the statute has now been in place for nearly 50 years. He said that one example of a change is the statute dealing with alimony. He said that when the law was first enacted, it was “pretty well understood that when you turned 65, alimony ended.” This is no longer true. “The law of marriage,” he said, “is now in many ways the law of divorce.”

Mr. Bounds added that one of the responsibilities of the Commission is to study and evaluate domestic relations laws, to look at what is there. He said that he would like the Commission to focus on this task during 2017.

Acknowledgment of Paternity by Minors:

Senator Lawson raised the issue of a minor signing a legal document acknowledging paternity without being of legal age. He noted that this matter has been considered numerous times by the Commission in recent years but feels that more work is needed to resolve the concerns surrounding this practice.

Visitation to Family Courts of other states:

Senator Ennis suggested that the Commission consider visiting the family court of another state. He suggested the possibility of visiting the Connecticut Family Court. Ms. McCall said that she had visited the Family Court in Elkton, MD, the county seat of Cecil County, in October, noting that they have court sessions that are open to the public.

Public Access to Family Court proceedings:

Ms. McCall also raised the issue of public access to Family Court proceedings, expressing the view that it has now to some extent been limited beyond where it was formerly.

Construction of new Family Court facilities in Kent and Sussex Counties:

Rep. Ramone noted that there is an ongoing effort to explore the construction of new Family Court buildings in Kent and Sussex Counties. He said that the availability of larger, more modern facilities, “may help to make people more receptive to increased public access.”

Adoption of Uniform Laws:

It was suggested that the Commission look into whether or not the State of Delaware is up-to-date on the adoption of uniform family law statutes.

The manner in which Commission minutes should be done:

There was a discussion of whether or not comments made by members of the public should be included in meeting minutes. Mr. Bounds noted that “you want a record of what happened, not a transcript.”

The meeting was adjourned at 11:05 a.m.

The next meeting of the Family Law Commission will be the Annual Public Hearing, to be held in the Delaware State Senate Chamber at Legislative Hall on the evening of Thursday, February 16, 2017, beginning at 7:00 p.m.

ADDENDUM:

DELAWARE FAMILY LAW COMMISSION ENABLING STATUTE (*First enacted on June 14, 1984*):

§ 2001 § 2002 § 2003 § 2004

TITLE 13

Domestic Relations

CHAPTER 20. COMMISSION ON FAMILY LAW

§ 2001 Creation.

The General Assembly hereby creates a permanent Commission on Family Law.

64 Del. Laws, c. 481, § 1.

§ 2002 Composition.

The Commission shall consist of 16 citizens of the State and shall have at least 2 members from Sussex County and at least 2 members from Kent County. At least 2 of the members of the Commission shall be attorneys licensed to practice law in Delaware, at least 1 member shall be a judge of the Family Court of the State; 2 members shall be members of the House of Representatives, with 1 from each of the 2 major political parties represented in the House; 2 members shall be members of the Senate, with 1 from each of the 2 major political parties represented in the Senate; at least 1 member shall be a pediatrician licensed to practice in this State, at least 1 member shall be a board certified family-practice physician licensed to practice in this State, and at least 1 member shall be a psychologist licensed in this State specializing in the psychology of children when appointed.

64 Del. Laws, c. 481, § 1; 65 Del. Laws, c. 175, §§ 1, 2; 66 Del. Laws, c. 386, § 1; 72 Del. Laws, c. 153, § 1.

§ 2003 Appointment; terms of office.

The members of the Commission shall be appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives who shall designate 1 member of the Commission to serve as Chairperson during his or her term of office.

(1) *Initial members.* — Nine members of the Commission shall be appointed to take office on September 1, 1984. Three of them (including the Chairperson) shall be appointed for a term of 3 years; 3 of them for a term of 2 years and 3 of them for a term of 1 year.

(2) *Additional members.* — Two additional members shall be appointed to take office September 1, 1985, in order to increase the membership of the Commission from the initial 9 members to 11 members. One of the additional members shall be appointed for a term of 2 years and the other shall be appointed for a term of 3 years.

(3) *Subsequent members.* — After the initial appointment of members and the additional members of the Commission, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall appoint sufficient new members of the Commission each year for a 3-year term so that the membership totals 16 citizens. They shall also jointly appoint members of the Commission to complete the remaining portion of the term of a member who has resigned or has been removed from the Commission.

(4) *Term of office.* — Initial members of the Commission shall serve for the term of office designated in their appointment. Subsequent members shall serve for a term of 3 years. Members of the Commission may be removed by a majority vote in the House and Senate with or without cause.

(5) *Officers.* — The Chairperson of the Commission shall appoint a Vice-Chairperson and Secretary of the Commission and such other officers of the Commission as the Chairperson deems necessary or desirable to assist the Commission in performing its duties, all to serve at the pleasure of the Chairperson.

(6) *Compensation.* — No member shall receive any compensation for his or her service on the Commission, but members may be reimbursed from time to time for their expenses in connection with the Commission's activities.

64 Del. Laws, c. 481, § 1; 65 Del. Laws, c. 175, §§ 3, 4; 66 Del. Laws, c. 386, § 2; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 153, § 2.;

§ 2004 Purpose; powers; duties.

The Commission shall study and evaluate the domestic relations laws of the State and the rules and procedures of the Family Court, review legislation affecting domestic relations law introduced in the General Assembly and Family Court rules and procedures, disseminate information about family law to the citizens of Delaware and engage in such other activities as it may deem appropriate in connection with the study, analysis, review and dissemination of information concerning family law. In furtherance and not in limitation of the foregoing, the Commission may:

- (1) Conduct public hearings;
- (2) Invite written comments on family law from members of the public;
- (3) Review and comment upon legislation affecting family law introduced in the General Assembly at the request of any member of the General Assembly or on its own initiative; and
- (4) Publish and disseminate information concerning family law to the public.

The Commission shall meet at least 4 times each year and shall report to the General Assembly its activities and recommendations at least once every year on or before March 15. The Commission shall not engage in the practice of law, shall not give legal advice of any kind to individuals about their rights or responsibilities (other than publishing and disseminating comments about existing or proposed legislation or Family Court rules and procedures) and shall not intervene, directly or indirectly, in any case pending in any court.

64 Del. Laws, c. 481, § 1.;