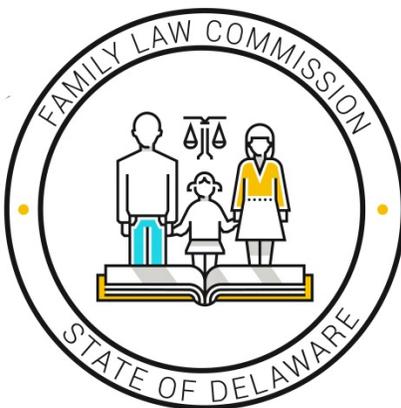


# **Family Law Commission Minutes**

## **Meeting of Thursday, April 19, 2018**

*Senate Hearing Room, Second Floor, Legislative Hall, Dover, Delaware*



### Members Present

Curtis Bounds, Esq., Chair  
Senator Stephanie L. Hansen  
Rep. Michael Ramone  
Judge Peter Jones  
Dr. Diana Metzger  
Ms. Raetta McCall  
Mr. James Morning  
Ms. Kelley Huff  
Mr. L. Britt Davis

### Staff Members

Dick Carter, Senate staff  
Colinda Marker, Division of Research staff

### Members of the Public

One member of the public was present

## **Meeting Summary**

Chairman Bounds called the meeting to order at 9:35 a.m.

The minutes of the meeting of Nov. 16, 2017 were approved. The minutes of the meeting of March 15, 2018, were approved as amended. The draft 2017 Annual Report will be further considered at the May 17 meeting of the Commission.

**Introduction of new staff person** – Mr. Carter introduced Ms. Colinda Marker of the Legislative Council’s Division of Research, who will be helping to staff the Family Law Commission going forward.

**Discussion of Family Law Commission legislation**

The Commission discussed draft legislation which would have the effect of changing the existing requirement that the commission have one pediatrician member and one board-certified family practice physician to having two licensed health care providers, currently practicing or retired, with expertise in pediatrics and family medicine. The bill, which was drafted by commission member and Senate Attorney Kelley Huff, Esq., also would change the requirement for at least one Delaware licensed psychologist to at least one Delaware licensed “mental health professional.” These changes are expected to make it easier to fill vacancies on the commission. The bill would also correct an oversight in the existing statute by requiring that there be at least two members from each of the three counties. Finally it would change the name of the commission from “Commission on Family Law” to “Family Law Commission.”

*(UPDATE NOTE: The legislation has been introduced and will be Senate Bill 213. Its sponsors are the two Senate members and two Representatives who serve on the Commission, Sens. Hansen and Lawson and Reps. Bolden and Ramone.)*

**Discussion of Commission Vacancies**

The commission discussed appointments and reappointments of members. The terms of five commission members will expire as of April, 2017. These are Rep. Ramone, Curtis Bounds, Esq., James Morning, Williams Walls, Esq., and L. Britt Davis. All will continue to serve until they have been reappointed or until a new person is appointed in their place. All have indicated their willingness to be reappointed. The names of those who are willing to be reappointed will be submitted to the President Pro Tempore of the Senate and the Speaker of the House for consideration.

Ms. McCall expressed the opinion that there are presently too many attorneys serving on the commission and asked if it would be possible to appoint persons without law degrees to some commission slots in the future.

Mr. Bounds also noted that commission member Twain Gonzales has submitted his resignation. Mr. Gonzales also provided Mr. Bounds with the name and résumé of a possible replacement who is a licensed psychologist. Mr. Bounds will look into that possibility.

### **Suggested changes/additions to the Family Law Commission website and link to Family Court website**

It was suggested that a section be added to the Family Law Commission website detailing the requirements for commission members and providing information about how interested persons may go about submitting their names for consideration.

It was also suggested that inquiries be made to see if it would be possible to have a link to the Family Law Commission website on the Family Court website.

### **Discussion by Ms. Raetta McCall of needed improvements in Family Court procedures:**

**Additional training for pro se litigants** – Ms. Raetta McCall continued her on-going discussion from the previous meeting of the need for more training for *Pro Se* litigants (i.e., litigants who are not represented by attorneys). Noting that some 80 to 85 per cent of Family Court litigants are not represented by attorneys, she said that it is important to provide as much training and resources for them as possible. She also advocated having the Delaware Family Court conduct a survey for *pro se* litigants to see how well the system is working and in what areas there is room for improvement.

Senator Hansen spoke in support of additional training for *pro se* litigants. She also said that it would be very helpful to provide such training for attorneys who do not normally practice family law but who are assigned as court-appointed attorneys in Family Court cases. Senator Hansen, a practicing attorney, spoke of the difficulty of handling such cases for attorneys whose legal expertise lies elsewhere.

**Expand opportunities for litigants to file court documents at more convenient times**  
– Ms. McCall also discussed the need for the court to have evening office hours one day a week

in each county so that litigants could file court documents without having to take additional time off from work, which can jeopardize their employment. She said that under the present system it is often necessary for litigants to take substantial amounts of time off from work to either appear in court for proceedings or to file documents. She noted that during her time as chief judge of Family Court, Judge Chandlee Johnson Kuhn instituted E-filing to enable persons to file documents online. Ms. McCall said, however, that there are still a significant number of people who do not use computers and that even for those who are computer users; e-filing of documents can be problematic because sometimes persons do not have complete information as to how to file.

Commission member Judge Peter Jones said that while he is in favor of extending hours, many people today do have flexible work schedules and some litigants are not employed. He also stressed the difficulty of scheduling because, for one reason or another, litigants do not appear in court at the appointed time. In many instances, the cases are settled after the hearing has been scheduled but before it takes place.

**Improvement of Family Court Resource Center** - Ms. McCall said that the existing Family Court Resource Center needs some improvement. She said that, among other things, a link to the new Family Court support person position, which was instituted by Chief Judge Michael Newell, is not listed on the court's website.

**Need for a "Contempt Court" and a "Parent Coordinator"** - Ms. McCall discussed the need for a "Contempt Court" which would have the sole purpose of hearing matters involving situations where litigants are not doing what they have been ordered to do by the court. She said that there have to be consequences for failure to follow court orders. She feels that such matters should be handled as they arise in order to keep situations from becoming worse. She also feels that the court should have a "Parent Coordinator" to intervene in cases where one or another parent is unwilling to carry out court mandates. One example where such a person is needed, she said, is that some parents are not willing to allow their children to undergo court-mandated counseling. She also feels there is a need for someone from the court to check back with families after some time has elapsed to see how they are doing.

Judge Jones noted that he has often held litigants in contempt of court when they have not carried out court orders and in some cases has sent people to jail.

**Prosecution for perjury** – There was a prolonged discussion of the unwillingness of the Department of Justice to prosecute persons for perjury in Family Court proceedings. Judge Jones noted that actual outright intentional lying in court is very uncommon. He said that having two versions of a story is not necessarily evidence of perjury.

**Protection from Abuse Orders** – Senator Hansen proposed having a broader discussion of Protection from Abuse orders and their alleged misuse. She said that in some instances PFA's are being used as a sword and not as a shield.

Mr. Bounds noted that the PFA process is about 20 years old and that the Family Court is doing a much better job today of administering the PFA statute appropriately.

**Division of Child Support Enforcement** – The view was expressed that it would be helpful to have a representative of the Division of Child Support Enforcement come to a future commission meeting to provide an update on the work of the division.

**Agenda for May 17 Meeting** – It was noted that the two main items of business at the Thursday, May 17 meeting of the Family Law Commission will be (1) a discussion by Senator Bruce Ennis and several commission members of their recent trip to Connecticut to observe the work of the Family Court in that state, and (2) a presentation by Family Court Chief Judge Michael Newell as to the current state of the court.

### **Public Comment**

One member of the public addressed the commission on the subject of Parental Alienation. He presented a letter from the Committee for Public and Professional Accountability of the Parental Alienation Study Group (PASG) concerning his view that it would be good for the commission to have experts in the field of Parental Alienation address them about this subject. He offered the services of PASG to facilitate this.

**The meeting was adjourned at 11:35 a.m.**

**The next Commission meeting will be held in the Senate Hearing Room on the 2<sup>nd</sup> floor of Legislative Hall on Thursday morning, May 17, 2018, from 9:30 – 11:30 a.m.**