

FAMILY LAW COMMISSION
MINUTES
April 6, 2006

The Family Law Commission met on Thursday, April 6, 2006, in the Senate Hearing Room in Legislative Hall. The following members were present: Senator Liane Sorenson-Chairman of FLC, Harry Gordon, Lynn Kokjohn, Ellen Meyer, Esq., Judge William Walls, Dr. Harriet Ainbinder, Representative Terry Schooley and James Morning. Also present was Jody Humber from Family Court.

Senator Sorenson called everyone's attention to the minutes of the previous meeting in March and asked if there were any additions or corrections. There being none, they were approved as reported.

The Senator then introduced Julie Pezzner, Esq. Julie was known to the Commission as she was one of the FLC's previous liaisons from Family Court to the FLC. Julie is the manager of *Pro Se Services* for the Administrative Office of the Courts, and she spoke about The *Self-Help Center* at the Administrative Office of the Courts. She distributed booklets to everyone entitled *The Delaware Judiciary* which contained a great deal of background material about the Self-Help Center along with the web site that anyone can access from their home computer at <http://courts.state.de.us> At this site you will be able to access the Delaware Judicial System and Family Court.

Julie proceeded to share with the FLC information dealing with the Self-Help Center. This center allows litigants the opportunity to talk to an attorney for 15 minutes. The attorney will answer specific questions on court procedures regarding custody, visitation, child support, or divorce. This may not be a question that they have previously asked another attorney, nor can this person be their attorney. This service is available on a walk-in basis, and it is offered on Mondays at the NCC Courthouse at 5th and King Streets from 11:00 a.m. through 1:00 p.m. The litigant will be requested to fill out a Pro Bono Legal Assistance Form which the litigant will be asked to present to the attorney at their meeting. These questions can only deal with *basic legal questions* that will assist them in their filing. AOC has been assisted by the Widener School of Law in providing this service.

The primary goal of the *AOC pro se* program is to increase public access to the Delaware judicial system in a manner that will enable litigants who might not otherwise seek legal assistance. The one thing that they cannot do is give legal advice.

Jody Huber also deals with *pro se* litigants, but the people that Jody helps only have issues in Family Court. She also brought packets with her which she passed around for the members to look over. They deal individually with many of the problems that one might encounter having a case in Family Court such as Divorce, Custody, etc. These individual packets—each one dealing with a different subject—can be purchased from Family Court for a fee of \$5.00, or they may be downloaded for free from their computer. You may reach this site by going to <http://courts.state.de.us.family>. *Pro se* litigants are held to the same standards as an attorney. It was noted that the courts are providing more assistance than ever before. There is a hope that this service will be available in all three counties, but right now there is a need for volunteers to staff the centers in the other two counties.

Next on the agenda was Pending Legislation. Chairman Sorenson stated that there were no bills that needed immediate attention. She did discuss the following bills H.B. 98, H.B. 124, H.B. 170, H.B. 391, and S.B.78. James Morning asked that the commission follow up on H.B. 124, and it was requested that a copy of H.B. 98 be distributed to the members at the next meeting.

At this time Senator Sorenson introduced our new Attorney General, Carl Danberg. He said that he is usually the one to listen to testimony, but acknowledged that he was here to answer some questions for everyone. The first item he addressed was the means of notifying parties for their appearance in Court. At the Public Hearing someone mentioned how long it took for that person to receive his notice to appear in Court. The litigant noted that the notice had a postmark of Baltimore, and the gentleman failed to receive his notice in time to appear in court the scheduled time. Judge Walls answered this by saying it is not something that Family Court initiated, but that all State Mail is now routed through Baltimore.

The Attorney General had been asked to speak to the Commission about the issue of *false allegations*. He said that the A.G.'s office knows that this occurs, but that they have no real way of preventing this from happening. This is something that is extremely hard to prove. What is needed is a Contempt Commissioner. When addressing the P.F.A.'s, the A.G.'s office has no role in the original process. One problem with P.F.A.'s is that they can be used as a weapon in court. There seems to be no good way of preventing this, but the Attorney General still feels that this is a necessary tool in domestic violence cases. In regard to Plea Bargaining in criminal matters, his office has no jurisdiction regarding this—it is done in Family Court. Plea bargains are usually used as a mean of compromise. One has to weigh each case considering all of its faults and weaknesses. One must remember that not all cases are provable. The Attorney General's Office would love to be able to prosecute a perjury case, as the Attorney General felt it would be good to set an example. He did state that he would **not** like to see Family Court opened for all cases, especially the ones dealing with children.

Another important factor that he mentioned was the fact that the Public Defender's Office is seriously understaffed. He said that they are always adding more Police, but not the support staff to do the work that comes from the addition of the extra police. The Attorney General also said that there is not enough space to try the cases. D.F.S. has requested an additional deputy to staff the calendar, and there is a need for felony prosecutors. Senator Sorenson said that she would write a letter on behalf of the FLC supporting their request to the JFC. The meeting was adjourned.

Public Comments: Raetta McCall asked that the FLC write and introduce a bill requesting Family Court to make available Audio Tapes of an individual's case in Family Court, since the paper copies are so costly.

Sunday Haffen asked that a litigant be able to use their own child psychologist.

Cynthia Smith asked that the Court always consider the best interest of the children and their families when making their decisions.

F.Y.I. The next two meetings of FLC are as follows:

May 11, 2006 at 9:30 a.m. Senate Hearing Room

June 8, 2006 at 9:30 a.m. Senate Hearing Room

The meeting was adjourned at 12:05 p.m.

Respectfully submitted,

Jean C. Ardis, Secretary
Family Law Commission