

**Family Law Commission Meeting Minutes**  
**for Meeting of May 16, 2013**  
**(As Corrected and Approved by the Commission on 6-6-2013)**  
*Senate Hearing Room*  
*2nd FL – Legislative Hall*

Members Present

Lynn Kokjohn, Chair  
Representative Stephanie T. Bolden  
Dr. Twain Gonzales  
Eileen Williams  
Dana Harrington Conner, Esq.

James A. Morning  
Representative Michael Ramone  
Judge Bill Walls  
Peggy Smith  
Lawrence Britt Davis

Others Present

Invited Guests:

Charles Hayward, DHSS/DCSE  
Gwendolyn Anderson, DHSS/DCSE  
Ted Mermigos, DHSS/DCSE  
Nichole Moxley, DHSS/DCSE  
Brenda L. Sammons, DOJ

Dick Carter, Senate Staff

Four members of the public

**Summary of Meeting**

The meeting began at 9:30am with the unanimous approval of the April 26, 2013 meeting minutes as corrected.

There followed a discussion of the Commission's present practice of allowing public comment by members of the public following adjournment of the regular meeting, and whether or not this practice complies with the provisions of the Freedom of Information Act. It was noted that several attorneys familiar with FOIA, including a representative of the Dept. of Justice, had expressed the view to Chairman Kokjohn prior to the meeting that the commission may allow public comment during meetings but is not required to do so. Moreover, if the commission does elect to allow public comment, they are not required to describe the content of the public comment in the meeting minutes. The commission may also invite written comments from members of the public.

Commission members were in agreement that the commission should adhere as closely as possible to the statutory requirements of FOIA, but that it is important to continue to get public input. Various means of accomplishing this were discussed, including holding more than one public hearing per year and taking steps to better advertise the annual January public hearing. Ms. Kokjohn and Ms. Harrington Conner will look into the matter further. In addition, Ms. Kokjohn will seek a written opinion from the

Attorney General's Office as to exactly what the Commission is required to do to remain in compliance with the law.

The Commission held a further discussion of the "Voluntary Acknowledgement of Paternity" form and the legalities of having a minor sign such a document, as is the present practice. The issue had been raised at the April 26 meeting but a full discussion was postponed until the May 16 meeting.

Mr. Charles Hayward, Director of the Division of Child Support Enforcement (DCSE), summarized the areas of concern with the present form: (1) its readability and whether an underage person can easily comprehend its meaning; and (2) is it legally acceptable for an underage person to sign the form and, if changes are needed in the process, what form should those changes take. He said that every state is required to have a voluntary acknowledgement of paternity program.

Ms. Gwen Anderson of DCSE noted that the division now has a fulltime employee who is assigned to Christiana and St. Francis Hospitals, the two leading child birth hospitals in the state of Delaware, to provide parental education. This person provides educational materials to parents and is a notary public and is able to notarize documents as needed. Videos explaining the ramifications of acknowledgement of paternity are also available in both English and Spanish. Ms. Anderson said that division is preparing to request proposals from downstate community service agencies to provide similar services for southern Delaware hospitals

Mr. Hayward said that the division presently provides the same information for adult and underage fathers. He said that the statute had formerly distinguished between the two, but that the law had been changed and that section was removed. "We would like it to be put back," he said.

Ms. Brenda Sammons, Deputy Attorney General who represents DCSE, said that there have been no legal challenges to the present procedure so far, but noted that "we should not take it for granted that we have a fail-safe system, particularly for underage parents."

She said that the original reason for the acknowledgement of paternity form was to enable an unmarried parent to acknowledge paternity without having to go through a formal court procedure to do so. She said that if the present system were changed to bar minors from signing the form, it would be necessary to appoint a guardian to go to court with the minor and deal with the paternity issue.

She also noted that because the federal government requires the state to have a voluntary acknowledgement process to be in place for minor parents, if Delaware were to enact a law placing conditions upon the minor's ability to sign the "voluntary acknowledgement of paternity" form, such as requiring minors to take a mandatory dna test before being allowed to sign the form, the state's law would not be in compliance with federal law, which could cause the state to jeopardize federal funding.

In response to a question from Rep. Ramone, Mr. Hayward said that the youngest parent the DCSE has ever dealt with was 11 years old. There was also some discussion about the difficulty of determining exactly how many underage parents there are in Delaware. DCSE is only aware of those who become involved in child support actions. It was suggested that perhaps the state Bureau of Vital Statistics might have more complete statistics.

There was a brief discussion of DNA testing and its connection with acknowledgement of paternity. Dr. Gonzales discussed leading studies on the subject and expressed the view that mandatory DNA testing would not necessarily be a good thing for families. Several commissioners expressed the view that they would feel more comfortable with mandatory DNA testing for underage parents. Ms. Harrington Conner said that mandatory testing could “do more harm than good.” She said that the commission should investigate the subject more fully in order to avoid doing something which may have unintended negative consequences.

Ms. Anderson noted that only about 50 percent of “acknowledgement of paternity” cases end up in support actions through DCSE.

Commission members expressed a general consensus that counseling and possibly free DNA testing need to be made available to minor parents before they are asked to sign a voluntary acknowledgement of paternity form. Ms. Sammons agreed to see whether or not such requirements would comply with federal law and report her findings to the commission.

There followed a discussion of the two-year time period in which alleged fathers may challenge paternity after the birth of the child and under what circumstances such challenges may be made after the two-year time period had ended.

It was decided to continue the discussion of voluntary acknowledgement of paternity and related issues at the June 6 meeting, and to invite the representatives from DCSE to return at that time.

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