

Family Law Commission

Minutes

February 8, 2007

The Family Law Commission met on February 8, 2007 at Legislative Hall in the 2nd Floor Senate Hearing Room. The purpose of this meeting included a follow up of the Planning Meeting, discussion regarding the Family Court Training and Tour, a summary from Representative Bob Valihura the Melson Formula Task Force Report, and upcoming Legislation.

The following members were present at this meeting: Judge William Walls, Jody Huber, Dana Harrington-Conner, Esq., Harriet Ainbinder, Representative Pam Maier, Representative Terry Schooley, Representative Bob Valihura, Lynn Kokjohn, James A. Morning, Franny Haney, Bob Klosiewicz, Curtis Bounds, Esq. and Chair of The Family Law Commission, Senator Liane Sorenson. Also in attendance were Katherine Jester, Drew Slater, Guy Sapp, Maria Ottinger and concerned Delaware citizens.

Senator Sorenson opened the meeting at 9:45 a.m. with introductions. She introduced Guy Sapp of Family Court, and Drew Slater, staff member of the Senate. The minutes from the January 10, 2007, meeting were approved and a motion was made to accept by Rep. Maier. Senator Sorenson informed the Commission and attendants that Lynn Kokjohn has set up a format of Guidelines to follow by Public Speakers. The two page format, submitted during the meeting to the commission by Lynn will enable a better understanding of public input and focus on key issues in the future. Page one explains the FLC Public Input Guidelines and Page two is the FLC Speaker's Outline.

The first item scheduled for discussion was the Tour of the Family Courts in New Castle and Kent Counties to be set by Guy Sapp. Senator Sorensen suggested scheduling a tour in New Castle to see the Pro Sé Kiosk during the PFA hearings on Friday. In Kent County, the PFA hearings are on Tuesday and Wednesday. She added there are people against an Open Family Court. The Women of Family Law Section of the Bar will give an opinion regarding Open - Close Court issues in the future. She also suggested consideration of inviting speakers such as Atty. General Beau Biden and Judge Kuhn to the FLC.

This led to discussion of The Family Court Training sessions reported by Franny Haney, who invited Guy Sapp to give further information. The first point of

discussion was the success of the Parent Educators program, a common theme in public hearings. Harriet Ainbinder asked 'Who was in charge of overseeing this program? Dana Harrington-Conner asked if there was any feedback to measure the success of the program. Jody Huber added that 'There are courses for Parent Educators that are overseen by Health and Social Services and not the Family Court. Harriet suggested there should be an evaluation of the program with an Evaluation Sheet to follow up periodically. Senator Sorenson suggested this may be a project for Grad students.

Franny then mentioned Domestic Training for Mediators, and Bob Klosiewicz distributed a four page handout on The Family Court of the State of Delaware Training Overview, Fiscal Year 2000-Present to include Judges, Commissioners, Supervisors and Managers, and Non-Judicial Employees. He also mentioned Judges attended two retreats a year that covered subjects such as Custody and Ethics, Juvenile alternatives, and internal policy issues. New Judges attend Judicial College Conferences. Commissioners attend a 2 day retreat, Employees must attend 1 day state wide training sessions and Supervisors and Managers attend two one day sessions. Bob Klosiewicz stated that Security was a big issue in Delaware Training. Additional to this training sessions, there are Workshops regarding Workplace, How to access systems, Annual ceremonies, Educational assistance programs, Health benefits and Wellness Programs. Typical attendance has been about 165 each year.

Franny said Judges must complete 30 hours of responsible training each year. Topics in these sessions include Ethics and Genetics in the Court Room,

New laws passed regarding Domestic Violence issues from 1993 - 94 and 1995 - 97. The Court of Common Pleas has conducted specific conferences on Domestic Violence in accordance with National Judges. Court Staff is also required to attend 6 hours of training each year.

Senator Sorensen inquired about training for Mediators and Bob replied in 2006 the introduction of a 6 day training program is the first concerted effort. Representative Maier asked about the Budget line for these training programs and Franny said there are scholarships available for staff that wants to continue.

Senator Sorenson said training of Mediators should address concerns of fear factor due to violence, further stating that Mediators should be able to work within a comfort level. Dana stated that Domestic Violence was not the only issue but also concerns regarding primary custody and who should be placed in the same room during mediation? Guy Sapp said that it is hard to locate Mediators who have had certification of education, experience or job training. He concluded that there is a 3 Tier Expertise level of Mediators:

1. Probation - lower level
2. Completion of the 6 day process - moderate to difficult
3. Certification - High level

Rep. Maier wanted to know if there would be Supervisors working with DFS on caseloads. Guy Sapp replied that caseloads will not be pro-longed and the Mediators do to try to resolve them in timely manner. Rep. Maier asked for qualifications of Mediators. Dana said that in Superior Court Mediators are not staff, versus Family Court Mediators where they are staff. Bob Klosiewicz added that Mediators were not Attorneys- but are required to have a B.A. in related areas of Human Services and work experience.

Other topics discussed pertained to the realm of Certification for these training sessions, orientation and overview of the court, security and conduct, cost, and the availability of scholarship to staff that want to continue. More information can be obtained from the website - www.state.courts.de.us.

Rep. Maier stated in the Women of the Bar, there are some that felt the Family Court was a step-child since there are no recorders in the proceedings. Guy Sapp mentioned that Commissioner Stewart has requested to have FTR to monitor audio feeds and key in on identifiers. Presently - the courts are trying to provide security, and not getting quality from the Court monitors. The implementing process to add a better system will begin in the next fiscal year. Senator Sorenson said the problem with the present system included misspelled names and poor quality of transcripts. She added it is critical to get an audible system for the purpose of accuracy. There are only 6 such systems and there is a need for 15 to equip each court with a recorder, according to Guy. Is money an issue? Electronic court recorders would be cheaper in long run. Rep. Maier said, 'We need reallocation.' Rep. Valihura said there was a committee hearing on this matter, but the Public did not want the system in place.

Senator Sorenson said there have been a lot of requests to get the system. Guy said the court needs to provide copies of CD's. and the Court Administrator said it was do-able but it needed proper software to decode to give to litigants at request.

The second item on the Agenda was the report given by Representative Bob Valihura of the Melson Formula Task Force, formed last year when people testified to FLC to get feed back. Ellen Meyer, now retired and Lyn Kokjohn were also members of the Task Force.

Rep. Valihura began with a Thank you for the invitation to work with FLC to

accomplish the goals intended. This was his second time around, appointed by Speaker Terry Spence four years ago. A survey of the Melson Formula is taken every 4 years. He was invited to work on it again. This not being his area of expertise, he spent many Fridays in meetings unable to give input but to learn the issue. The entire Task Force was sued at one time, during his service.

When approached to serve again, Rep. Valihura said "Sure, I will serve again." The following are reasons why he chose to serve.

1. The people who had served were dedicated.
2. The issues were of significant importance to those affected.
3. An intellectual prospect - awarded with the positive experience to work with the Melson Formula. Did it need to be fixed?

Rep. Valihura said the discussions in January meeting helped when he managed to hear concerns that were heard, considered and discussed. He was pleased with the impact and change of the new formula. The transcripts stating important concerns that were addressed included:

1. The Forms given to the folks
2. Should bonuses be included in the formula?
3. Are they (payers) being treated fairly?
4. Are Taxes accessed on these allowances?

The Report had more substantial changes made this year and the Chief Justices understood the final report. Senator Sorenson asked Rep. Valihura how the Melson Formula Task Force group voted. Rep. Valihura explained the following was the process. What shall we discuss? One section in the formula was discussed at each meeting set. The formula was taken section by section and provision was addressed for each section. The group met 6 times in agreement. A person with mathematical expertise was needed for the mathematical equation, to set the equation to last for the next four years, since changes occur. The mathematical statistic called for a new methodology to change the equation every 2 years for fair assessment of need. A consumer spender survey was used to give individuals a fair shake. The summary from 19 pages resulted in a 1 $\frac{1}{2}$ page handout given to Delaware Child Support now available on the website according to Lynn. Rep. Valihura concluded the Melson Formula Task Force Report has been completed. Advisory until Judges have accepted. The Report on the Family Court website was approved www.state.de.us/flc.

Senator Sorenson asked to go over the specifications on the October 2, 2006 Evaluation and Update handout. Rep. Valihura said the specs were reflective of

what is going on in our society. The Senator wanted to know what was done about item #2 on this handout referring to the "inequity that exists for non-custodial parents that have multiple children in multiple families." A suggestion of accountability regarding this was made by Harriett. The cost expense of setting up the process for accountability is an issue. Who would pay for obtaining this information? Other questions included: "What about the cost of living?" "How are custodial parents spending the money?" Senator Sorenson replied "Child Support Enforcement is concerned that the support is paid, not how it is spent." It is a concerted effort. Dana added "Give the money to the poor instead of spending it on Accounting. She also said the receiver should have to pay for accounting.

Rep. Valihura said there were two concerns regarding parents with disabilities. The first included some of the parents having expressed "Don't treat us different than the other folk." And the other concern was some of the parents were "Presumed of having a disability, but it doesn't mean - they don't have to pay." There are circumstances of the obligor to be able to pay. Rep. Valihura acknowledged that the effort of the Task Force was extraordinary this year. He also mentioned that shortly after the final report was received - the issue of being sued was dismissed. Lynn said all the issues in the report were addressed. Rep. Maier said visitation was also included. James Morning distributed a letter and an article from Anita Stuckey, from Texas. These handouts offer suggestions of initiatives and programs established for Child support and Visitation, worth exploring in Delaware.

One tool provided in this handout is "*The Online Access and Visitation Directory is a compilation of programs across Texas designed to facilitate shared parenting among unwed parents and/or after separation or divorce.*" Another idea is "*the Texas Office of Family Initiatives offers child support staff, parents, counselors and others easy access to more than 40 providers of Access and Visitation services statewide.*"

Senator Sorenson said that FLC meetings on Wednesday night may be conflicting with the Wednesday parent visitation night. She suggested changing FLC meetings for Tuesday to be sensitive to the parents scheduled visitation.

The third item on the Agenda was Legislation to be introduced in the 144th General Assembly. The following has been sent to Senator Sorenson's Office.

HB 7 — AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE TO ESTABLISH THE SCHOOL BULLYING PREVENTION ACT.

Rep. Maier said regarding HB —7, Domestic Violence would be addressed in this bill.

SB 29 — AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE BY REMOVING THE STATUTE OF LIMITATIONS FOR CIVIL SUITS RELATING TO CHILD SEXUAL ABUSE AND ADDING RELATED PROVISIONS REGARDING SUCH SUITS.

Senator Sorenson suggested taking a closer look on SB 7 as a Public Policy issue. Mr. Bounds asked how are people going to defend themselves when civil suit is against institutions, like the recent cases against the Church. Is the State going to exempt itself in these cases? Another inquiry was in regards to victims not able to deal with the abuse for years, sometimes in their later years. The Senator stated a good remedy was to extend the statute of limitations, but how long? More on Legislation, Senator Sorenson spoke about the Family Court Jurisdiction need for increase of number of Judges from the present 18 to 25. Rep. Maier wanted to know what the cost factor would be. There is no number given to this HB yet. The Senator said she will try to set up a time for Charles Hayward to speak to the FLC on this issue.

New Business

Change April 12 FLC meeting back to April 5 due to Legislative Hall being closed for the Easter Break.

The Public hearing to speak of the Custody Evaluator program being a new issue

Senator Sorenson was misquoted in the *News Journal*.

Dana gave a report regarding downstate Delaware. - Parent educators are court mandated. There is financial aide for the 16 week class. Parents are charged according to sliding scale. Rep. Schooley will research how these courses are helping. She said the fees may be a stumbling block. One of the visitors, Sunday Haffen, spoke to say that the mandatory parent classes were successful. She taught these classes. She said she was offered \$50 per hour to teach, however, declined that amount and asked to take a smaller amount so the rest could go into the program. She also remarked the present certification is the way to go. She said the audio tapes from court were too restrictive. Raetta McCall commented on the video tape regarding sexual abuses entitled "Breaking the Silence". Ms. Haffen submitted a written comment on the grievances of men and women wronged by Family Court and Child Custody Evaluators.

Other issues brought up by the public re: child custody is that "children are left out" of decisions; Parent co-coordinators (lawyers) can assist in these cases, but the fees are too high at \$200 per hour. A suggestion was made to have flat rate vs. \$200 per hour. In some cases, children cannot go to a Physician unless both

parents agree. If parents can not chose for themselves, the children end up suffering. As a result, this leads to clogged courts.

Another citizen Herman Row also submitted a letter to FLC regarding the costly effect on children due to unresolved issues in the court. Issues included in his statement custody and child support. He also stated that there was a difference in the numbers of Fathers granted custody apposed to Mothers granted custody. After making mention of Domestic Violence incident when Police officers are called, he said there is Police Officer Training Manual. Is it public? Jody Huber asked to invite the DVCC to come speak to the FLC. Senator Sorenson said the last DVCC meeting was well attended and suggested to have another one again to discuss the process when police are called to Domestic Violence incidents. Do they ask for court orders?

Another citizen, Alice Smith read a letter of her experience with the Family Court. The subject was "Delaware Courts Failed Me." It was a very emotional testimony and Senator Sorenson extended Ms. Smith time to listen to her experience.

Sunday Haffen spoke and submitted a letter on the behalf of Louisa Johnson, her daughter. The letter lists several unresolved issues within the Family Court system. Reference is made to an article in the Ithaca Journal, January 2007, titled FAMILY COURT TREND DOESN'T FAVOR MOTHERS. The following list some of the grievances:

- No oversight to court orders
- No Changes
- PFA orders are not enforced
- Mediators need to be trained
- Vague custody needs to be issued in written court order not verbal.

Sunday does mention there seems to be some headway regarding FLC subcommittee on the reform measure for more transparency in courts.

The meeting was adjourned at 12:15 p.m.

Respectfully submitted,

Maria Ottinger, Secretary