

**FAMILY LAW COMMISSION  
MINUTES  
APRIL 5, 2007**

The Family Law Commission met on Thursday, April 5, 2007, in the Senate Hearing Room of Legislative Hall in Dover, DE. The Chair, Senator Liane Sorenson, called the meeting to order at 9:35 a.m. The following members were present: Senator Liane Sorenson, Judge William Walls, Representative Terry Schooley, Representative Pam Maier, Curtis Bounds, Esq., Dr. Diana Metzger, Lynn Kokjohn, Harriet Ainbinder, and Harry Gordon. Also present were Jody Huber from Family Court; Staff member from the Senate, Drew Slater; Katherine Jester; and our speaker for this meeting Tanya Culley, Child Advocate for the State of Delaware..

Before the meeting began Senator Sorenson introduced our new member of the Commission, Dr. Diana Metzger, who has been recommended to us by the Medical Society of Delaware. Dr. Metzger is replacing Dr. Rhoslyn Bischoff. Since this was her first meeting with us, Senator Sorenson asked that everyone introduce themselves.

Senator Sorenson then made the following announcement that the Family Law Commission's website has been changed due to the failure of the main carrier. Our new website can be found at <http://flc.delaware.gov>.

At this time Senator Sorenson asked everyone if they had any additions or corrections to the March minutes. There being none, it was moved and seconded to accept the March minutes as reported.

The Chair, Senator Sorenson, then introduced our speaker for this meeting, Tanya Culley, Child Advocate. She said that this office was created on June 30, 1999. She stated that Senator Sorenson and Representative Maier were both involved in the creation of this office. She explained that how she has interpreted the duties of her office during these past 7 years is by keeping the legislators informed as to the issues that have arisen in the State's Child Protection System. The Office of the Child Advocate was charged with many statutory duties and she said she has broken them down to three core categories. One is staffing the Child Protection Accountability Commission on which Representative Maier sits. This is a Commission of all the people involved in the Child Protection System such as the Chief Judge of the Family Court, Senators, Representatives, the Attorney General, Law Enforcement, and the Cabinet Secretary of the Children's Department, and Division Directors. They meet quarterly and make recommendations for change. One of the issues that they have worked on and have continued to work on is the expedited reviews of Child Abuse Death cases. They lobbied for that legislation several years ago and have continued to be involved with cases that involve near death and the staffing for the Child Near Death and the Still Birth Commission. They also lobbied for statutory changes to DFS caseload standards. They are continually involved in making changes to the Division of Family Services standards for investigation and treatment. They also investigate teenagers aging out of Foster Care

and how they can better meet their needs to help them become productive members of society. They are looking at expanding the jurisdiction of Family Court to have continued oversight of those children. These are some of the issues that the Child Protection Accountability Commission has worked on, or is currently working on.

The second function of the Child Advocate lends itself to the role of CPAC. She said that she sees their office as looking at the policies and procedures that happen within the Child Protection System mostly in the Children's Department but also the other partners that work together for Delaware's Abused and Neglected Children and to make recommendations for change. They are able to identify several issues that are happening within Delaware's Child Protection System. They serve on many other task forces that deal with abused and neglected children.

The last function is that they are statutorily mandated to provide legal representation to children who are abused, neglected, dependant, or are at risk thereof in the State of Delaware. She then referred to a document that can be found on their website. She began by referring to the document entitled Office of the Child Advocate Legal Representation of Children. She said that the number 334 represented the number of new appointments that they have done for children in 2007. She stated that they currently represented 726 children. She went on to say that in the first year when they began they only did 7 appointments. In addition you are able to see how they classify each appointment by case type. This chart shows the paid attorneys that they have in their office, and they are hoping to obtain a 4<sup>th</sup> this year, but she said that they have about 350 attorney volunteers. Through these two areas, they are able to provide legal representation for children. Not only are they involved in child custody cases, they are also involved in parent custody cases. She said that fewer and fewer of their cases have become the parent and dependency neglect ones. She stated that their office has changed back to is *what can they do to make sure that all of the children in the legal custody of the State – all the children in foster care – are represented.*

She then referred to another page entitled Legal Representation of Children in DFS Custody. This document is a joint effort by OCA and CASA and they have set up a program that tracks every child that is in the legal custody of the State. Now on any given day she is able to tell how many children are in the legal custody of the State; she is able to tell how many children are represented by CASA; how many are represented by OCA; and most importantly how many children continue to be unrepresented and where their greatest need is. They have asked for an additional deputy this year, because Sussex County shows that there are 54 children unrepresented, and that is 27% of the foster case children in Sussex County. There are still 130 children that are in the legal custody of the State that are without legal representation.

Tanya went on to explain the difference between the OCA and the CASA program. One of our Commission members, Harry Gordon, has been a CASA volunteer for 14 years. This program recruits volunteers from the community who have training, who are supervised by CASA coordinators who are employed full-time by the Family Court. The CASA volunteer makes recommendations to the Court via evidence as to

what is best for the child, and when they go to Court they are represented by a lawyer. OCA and CASA work closely together making sure the volunteer is able to meet the needs of the child. For example, if a child is deaf they try to get a volunteer or an attorney who knows sign language. Senator Sorenson inquired if Tanya felt that OCA had the more difficult cases, and she replied that statute requires that they have the more complex ones.

Harry Gordon stated that he assumed that the important benefit from this program is that it enables OCA, CASA, and perhaps DFS to prioritize within the unrepresented group the ones that are most serious and they are the ones that should receive your priority. Tanya agreed. One thing that DFS has asked them to do is to prioritize the 0 to 6 population. Judge Walls inquired if the reason there are ones who are unrepresented was because there is a court order and you don't have the bodies, or is it because there is no court order. He continued that all cases are required to have a CASA or an OCA. Tanya said that the statute says that every child should have one. Most of the court orders that come out of the court say a CASA or a Guardian Ad Litem through OCA shall be appointed. The reason they are not represented is because they don't have the bodies. As they are aware especially in Kent and Sussex Counties they have a high percentage of attorneys who volunteer for them, in addition to having a Deputy for each County, but there just aren't enough. She just doesn't have enough attorneys or CASA volunteers for these cases. In order to represent these children the person is required to be a member of the Delaware Bar, and then they ask for experience in Child Welfare etc. Most people that OCA have hired have Family Court experience.

Senator Sorenson inquired if there was a role for someone who have law degrees, but have been unable to pass the Delaware Bar? Tanya replied they always would be able to become a CASA. They do recruitments to the entire Delaware Bar twice a year to ask for CASA volunteers. They do have a mechanism to have law students, and others who are sitting for the bar, but who have not passed volunteer for OCA, but they have not initiated that because she would have to have a supervisory program set up to provide them with the necessary supports. If they can get a program, a coordinator for 25 hours a week, they would like to build a program at Widener Law School. Many law schools around the country have programs such as this to represent kids. Tanya said that they have many law students who come in every summer come in to volunteer for them, as well as interns from the University of Delaware.

Rep. Schooley inquired what is ESPP Services. Tanya replied that one of the other things that they have begun to track is many of the children in the legal custody of the State need Special Education Services. She said that not only do they need special education services, but their parents are unavailable to make special education decisions on their behalf. When their parent is unavailable they are entitled to what is called the Educational Surrogate Parent Program. This is another miscellaneous agency that comes under the Judiciary. What the Office of the Child Advocate is trying to do is find out from the ESPP data base the number of children that are in their data base and see if they match what OCA, because every child in their data base should be in legal custody of DFS. They are trying to find out just how many of these children are in need of this

service and eventually just how many children are in need of Special Education. She referred to additional statistics in her report to the members and explained the numbers to the Commission. She said that she had been asked how they pick or choose which case should be prioritized. She explained that there was very little picking or choosing going on at OCA. At present there are 130 children in Foster Care who are unrepresented. They are working as hard as they can in CASA to obtain volunteers. They are recruiting as best they can in going as far as advertising on the sides of the DART busses. They have continued to get some referrals from the Court on dependency neglect and parent cases and have tried to communicate to the Court that they really need to focus on the foster children first.

Senator Sorenson said that she had a couple of questions which had been raised at the Public Hearing. There was an issue raised by the Chief Judge at the Budgetary Hearings regarding whether or not there was a conflict of interest in having the Child Advocate under his office. Tanya replied that this issue was investigated a couple years ago regarding several of the offices such as OCA and the Court Administrator's Office etc. It was concluded at that time that this was a non-issue. Senator Sorenson inquired if Tanya had any opinions on whether she thought the Court should be *Open or Closed*. She replied that she would be glad to express her views on this subject, since this is a subject that is continually brought up at our Public Hearings. She said that she has been involved with Family Court for about 10 years. She went on to say that at one time she felt that she thought it would be good to have Family Court open, because then everyone could understand what she dealt with like the employees, the Judges, and the Court on a daily basis. She did think that previously, but she said she does not now support *open court*, and her reason for not supporting it is *the children*. It is one thing for adults to make choices in their lives and to have those choices be things that other adults are able to come in and listen to. As an example dad could cheat on mom, and he is an adult and he should understand that the consequences of his choice may be that could come out in a contested hearing that other people could come in and sit. She continued that the unintended consequences on the population that her office represents is that these children didn't choose their parents – they didn't choose the action of their parents, and they could be potentially ridiculed and humiliated as a result of the public information put out about their parents. For instance, should the public come in and the press come in and should it be someone of interest to the press and the public that could then be found in the news or put in the newspaper, and those children would go to school the next day and especially in small towns, there would be a significant discussion about their parents personal lives of which these children had no control over – and no say in – and the children's mental and emotional well-being could be compromised. For that reason she said that she did not feel that *Open Courts* are a good idea. She said that she did appreciate and understand that when you have *Closed Courts* there is speculation about what happens in there, but she stated that she had to come from the children's perspective. These children don't make these choices, and they should not have to be subjected to this kind of emotional damage as a result of it. Representative Maier questioned that if there were two adults who had no children and they would have no objection to having their cases open, or if one of them does would she object. Tanya said she would have no interest in that one way or the other.

Senator Sorenson said that another issue that was raised about the Office of the Child Advocate was an issue such as someone complaining that – *I can't see my child because of the Child Advocate* in terms of custody. Senator Sorenson said that as she understood this everyone has a Custody Order, and there are steps that someone can take to see their child. Tanya explained that her office represents the *best interest of the children* in Family Court proceedings. They are the lawyers and they present evidence to the court, and the court ultimately makes the decision. They are a party in the litigation - the Judges make the decisions in these decisions. The orders speak for themselves, and if someone is uncomfortable with the order then they should take action in the court. There have been occasions where the court has asked them to stay in and monitor things, or to play a more active role. They really do not feel comfortable doing this, but they are obligated to follow the court order, and if they didn't they would be equally at fault as any other person being held in Contempt of Court.

Representative Maier questioned whether or not the parents had legal representation if they were unable to afford this. Tanya said that if the child/children were in the legal custody of the DFS and the parents are indigent – yes there are contract attorneys throughout the State who would represent the parents. They are able to represent themselves, or they can choose an attorney outside of the system. Jody Huber said that this is a Constitutional right, because of the possibility of your children being taken away from you permanently, and your right to raise your children is a fundamental Constitutional right. This issue does not apply to private or parent to parent.

Representative Maier questioned if they were working on the grandparent issue, because there are more and more grandparents having problems with the parents. She wondered is something were happening nationally! Tanya answered that there has been a Supreme Court decision that said in non-DFS cases such as a mom can terminate dad's rights and have step-dads adopt and those cases do happen. In cases such as this what the Supreme Court has said that parents in cases such as this also have a Constitutional right to be represented. There is a footnote in that decision that seem to indicate that this would not only be in a termination, but could conceivably be when grandmother files for guardianship against mom and dad and then they may be entitled to council as well. This has been addressed as the "Walker Decision."

Senator Sorenson then expressed her thanks on behalf of the Family Law Commission to Tanya Culley for sharing her overview of the Office of the Child Advocate Office and for addressing the Commission this morning.

Senator Sorenson then called for Commissioner Harry Gordon to give his report on the *Open and Closed Court* issue. Since 1998 the Court has been operating under a detailed Family Court Directive accompanied by a rather confusing table of guidelines for what is called for by legislation. Family Court Judges report few calls in their courtroom for either Open or Closed, based upon petitions from the parties. The Chief Judge has stated that Family Court will be governed by the Legislature. The Legislature, as of now, have not chosen to alter the law, but also the presentation of the guideline regarding *Open and Closed* is being revised by the Court for clarity. Our committee is in

the process of drafting a statement to provide clarification of the issue. We believe that by addressing the issue on a case by case basis will be best for litigants to receive fair and balanced treatment under the law. We hope to have a definitive recommendation by the end of our Family Law Commission sessions in June. At the conclusion of this report Senator Sorenson reminded everyone that the Chief Judge will be our speaker in May and that the members should be thinking of questions they might want to ask her at this meeting.

Senator Sorenson then called on Dr. Harriet Ainbinder to give her report on Custody Evaluators. Harriet said that she had a meeting with the Delaware Psychological Association, and she presented the statement from some of the people who want the evaluators to have specific qualifications. When she raised this issue, the group decided to develop a Task Force for Custody Evaluators. They will be having their first meeting in April. Senator Sorenson asked Harriet if she would be serving on that Task Force and she replied that she would. She said that they have invited John Flaherty, and I believe he will be bringing two people with him – Raetta McCall and Sunday Haffen. The Task Force will listen to this group share their concerns and their ideas on what should be done. Then the Task Force will make up a list of details to address. Senator Sorenson questioned whether the Delaware Psychological Association will have the ability to make rules etc. Harriet said that what they will be able to do is to come up with standards and give them to the Board of Examiners. She said that what could happen then could be that these Standards could become a part of the Board of Examiner’s Rules for Psychologists. She said to remember this would apply only to psychologists. Representative Maier questioned whether they would be addressing the cost of the evaluation. Harriet said they would not set a fee that they could charge, but would make the evaluator establish up front the charge on the basis of the issues and to state the cost and who would be required to pay this fee. Harry Gordon inquired whether they will cover that when an evaluation is clearly in order, but the party or parties cannot afford this to be done, and she replied that they did not address this issue. Harry said that as a CASA he has had some cases that he would have loved to have an evaluation done, because the clarity of the facts seemed to be something needed.

The next thing on the Agenda is proposed Legislation. Senator Sorenson stated that last week there was a meeting of the Chief Justice, Representatives from the Court, and a number of law makers, people in leadership, people who serve on Judiciary Committees etc. and others who are on the budget committees, where the Chief Justice announced his priorities. Two of the bills that were on his list were H.B. 46 and H.B. 48. There were other issues on his list which had not been given bill numbers. One of the issues was the elimination of Social Security numbers on divorce degrees. Senator Sorenson said she felt that had to do with identity theft protection. Another act would allow Judges and Commissioners to preside over contested divorce degrees. The next issue addressed the Codification of Family Court’s Writ to Injunction/Sequestration – this gives the court authority to seize firearms from a respondent who is under a PFA. The last item refers to Murphey School Appeals. This one refers to the transfer jurisdiction of appeals from the Murphey School from Superior Court to Family Court. Judge Walls stated that this relates only to Kent County because that is where the Murphey School is

located. She asked if anyone had any objections or concerns regarding these Legislative Initiatives of the Chief Justice. Since there were none she continued on with the discussion of the new legislation which has been proposed since our last meeting in March.

HB 75 – This bill addresses the age of anyone wishing to marry and clarifies that anyone under the age of 18 years of age must get their parent’s consent.

HB 90 – This bill adds a representative of the Domestic Violence Coordinating Council to the Child Protection Accountability Commission. This has already passed the House.

HB 106 – This act is to encourage and enable the practice of Certified Professional midwives. Representative Maier is the sponsor of this bill, and she reported it was out of committee, and is now on the Ready List. This bill allows women of the State of Delaware to have the freedom to choose the manner, cost, type of birth attendant and setting for giving birth. Harry Gordon questioned how often this service is used, and Representative Maier said at least one birth a day, and the one midwife associated with Kent General said she might have 3 or 4 a day. They are used a great deal in the Amish and Mennonite Community.

SB 26 – This act will provide for an enhanced Truancy Court under the Justice of the Peace Court. This act will enable the J.P. Court to have full authority to adjudicate contempt charges, including any rehabilitative measures or penalties that could be employed had they occurred in Family Court. It also will provide an opportunity for appeal to the Family Court should the juvenile be found guilty of a truancy-related contempt charge. According to Judge Walls this is supported by the Judiciary.

SB 50 – This act will amend Title 10 of the Delaware Code relating to Family Court’s exclusive jurisdiction over Motor Vehicle Violations. This will give Family Court exclusive jurisdiction over minors who are charged with aggressive driving, driving after consumption of alcohol, and operating a bicycle on a roadway under the influence of alcohol or drugs.

SB 55 – This bill gives one free birth certificate to the mothers of children born in Delaware.

SB 57 – This act amends the definition of parties considered protected under the domestic violence statute. Senator Sorenson said that what this does is reflect relationships that aren’t currently covered such as dating relationships and same sex relationships. She said there are a significant number of people involved with partner violence that aren’t covered now, so this will change the definition of the parties involved. This bill is part of the legislative agenda and is being proposed by the Domestic Violence Coordinating Council. Jody Huber stated that the Court is behind this legislation and that they are

committed to providing protection to those individuals that would be in need of this protection. Jody said there is no civil relief for these individuals in any court. After a thorough discussion of this bill and how this would relate to an order for a PFA, Lynn Kokjohn said she thought the Commission would like to look into the bill further before giving their support to the bill. A copy of SB 57 was e-mailed to the members.

SB 60 – This bill addresses the Registration of Sex Offenders and community notification of Sex Offenders on probation, parole, conditional release, or release from confinement. Senator Sorenson said that what this bill is doing is amending Megan’s law. She said she felt that what we are doing with this bill is modifying our state laws so it conforms to the ‘Adam Walsh Act’ a national act. A question arose regarding people who have been considered sex offenders in the past and who have served their sentence somewhere else, the public is questioning why they do not have to register. Senator Sorenson said that she is involved with a Criminal Justice group nationally and that is a huge problem. Some of the problems related to sex offenders are where they live and how can you notify the public of their location etc. She said we have laws in the State of Delaware, and other states have made laws regarding where the offenders cannot live such as near a church, a playground, a community center, or a school. This is creating a real problem, because it becomes a real issue – *where can they live?*

SB 65 – This act sets up a tiered system for Child Care Quality and it rewards child care centers that have extra training etc.

Senator Sorenson informed the members that Delaware now has a KIDS Caucus. Delaware is one of three states in the country who have this, and she said that three of the four co-chairs for this caucus are among our members, and they are Representative Schooley, Representative Maier, and herself. She stated that there was a press conference today, and that they would be announcing their legislative agenda relating to children. She stated that this bill, SB 65, and the reimbursement rates for child care will be two issues that will be addressed in their KIDS Caucus.

Senator Sorenson said that during their session yesterday they passed SB 29 unanimously by those in attendance removing the statute of limitations for civil suits for child sexual abuse cases and provides a two-year “window” in which victims can bring a civil action in cases previously barred. This bill removes any statute of limitations going forward, so if there was an incest case and you didn’t feel comfortable coming forward until you were older or you have repressed memory and you are not able to deal with it until you are older – there is no statute of limitations. Also, the Senate added a two-year look back which would allow people to still come forward. This means that for old cases there is a two-year window for someone to come forward. This means that Delaware would be the first state to allow the two-year window.

Harry Gordon congratulated Drew Slater on his excellent presentation of the pending legislation for the Commission, and he said he thought that this was an outstanding job.

*Old Business* - Senator Sorenson addressed the planned visit to Family Court. She said that they still had not scheduled a date for the FLC's visit to Family Court in Wilmington. She asked if it should be scheduled now, or should it be scheduled in the six months when the legislature is not in session. It was decided that when we do visit Family Court it would be better to visit Kent or Sussex County to get a more realistic look at court proceedings. It was decided that this should wait for now.

Another item that Senator Sorenson addressed was the Commission wants to ask Ellen Meyer to attend one of our coming meetings, so the Commission would like to give her the recognition that she has earned due to her many years of service to the Family Law Commission. We are hoping that she can come to the June meeting.

*Under New Business* – Senator Sorenson asked Jody Huber if she had the 'motion to convene form' that Raetta McCall had questions regarding. This form would be used when a person would wish to come into a case in Family Court that is closed by statute. Jody said if the individual who wants to come and sit it is the petitioner – the parties to the case are the respondent. The motion itself is mailed to the respondent, and they then have 10 days to respond to the court to inform the court how they feel about having someone intervening and sitting in on their matter, and then the court makes their decision. Senator Sorenson inquired what was done previously and Jody said that it was similar, and it was a one-page request form, and this one is more complicated. Jody responded that she did not feel it was and that the third page is actually filled out by the court. You file a motion anytime you are requesting something in a pending matter before the court. On it you explain why you would wish to intervene in the court. The motion is a formal request made to the court, and it is a means of informing the other parties in the case that someone has requested sitting in on the case.

The Senator continued that there were two other things that they needed to do before the meeting was over. One of them was that she would like the members to think about some issues that Chief Judge Kuhn could address at the May meeting. The Chief Judge would like to be advised of some of the concerns anyone has pertaining to Family Court. Senator Sorenson said that you could e-mail them to her or to Jody Huber.

In another item Senator Sorenson asked if the Family Law Commission was interested in writing a letter in support of the budget request for Widener Law School. Widener met with Attorney General Biden who was impressed and was supportive of this request. This item would need to go through a State agency, and he is willing to have it come under the Attorney General's office which would create a Domestic Violence Clinic at the Widener School of Law. She said the reason why the Commission would give State support is because of the number of cases that are having trouble finding representation.

Representative Maier questioned whether the clinic needs to have a specific focus. She said she thought the law students would have a broad range of interest such as being children's and guardian ad litem's etc. She said she thought instead of looking at separate funding for that group – would it be too much to ask that it be broader than this.

Jody Huber said there already is a Delaware Civil Clinic that is housed within Widener University. The civil clinic handles all Family Law matters, plus some landlord tenant issues that take place in the J.P. Court. These are all for indigent clients who apply. She stated that she thought this would create a very specific clinic experience for students who came in and said that they really only wanted to have the experience dealing with *domestic violence cases*. It was decided to look into this request further.

Lynn Kokjohn asked if she could address another issue from past meetings. She said that someone was going to investigate the membership of the Family Law Commission regarding members that were not attending meetings. She asked what we can do about them, and how do we go about replacing them? Katherine Jester informed the members that before a member can be replaced, even though they have not been coming to the meeting, any action would have to go through Senator Adams and Speaker Spence. Katherine said she has done a draft of a letter to be sent to these members who have not been coming to the meetings. It says in a nice way that maybe they need to resign, but nothing can be done until those individuals resign. Senator Sorenson said she would like to see the draft of the letter. Lynn stated that she thought if a member missed a number of consecutive meetings and were informed how important it was to have someone be an active member of the commission, maybe they should think asking to be replaced. Senator Sorenson asked Katherine for an update on her project of finding a replacement for Ellen Meyer, and Katherine replied that she had approached a child care provider to fill this slot. Will keep our members advised.

The other issue Lynn wanted to address was the subject regarding '*public comments*'. Lynn said going back to the form that we have asked the public to use when they wish to address the Commission, it might be a good idea to start a list of these concerns and keep that list to refer to at future meetings. This way we would be able to make sure that any issue raised would be a *new* concern that they could add to their ongoing list. In this way, they could prioritize those issues and make a determination of any progress that the Commission may be able to make on a particular issue. This could be done somewhat in the same matter as the Pending Legislation Report. Several members expressed that they felt this was a very good idea. Representative Maier said these concerns should be on our agenda for our next meeting on May 10th. She said she thought that many of the questions really overlap with Family Court. It would be good to look at the ones already submitted and see if any of them could be addressed with the Chief Judge of Family Court. Senator Sorenson said that the List of Concerns that we have which were taken from the Public Hearing in January could be amended with any of the new issues that arise. Lynn suggested that maybe there could be a sub-committee that could get together and prioritize the issues. Senator Sorenson asked Lynn if she would take over this project. She said she would begin with the concerns that have already been submitted. Senator Sorenson said she felt that this could be included in the Annual Report that is done by the Family Law Commission at the end of the session. She said that the FLC will be able to submit that list and advise how the Commission addressed the issues by either having speakers or by writing letters etc.

The Commission then went back to the question before them on the Widener School of Law request. She said that now that everyone had a copy of the request they would be able to bring this request before the Commission at the meeting in May.

The next issue Senator Sorenson addressed was her request for the Commission to submit questions to her for Judge Kuhn before her visit in May. Harry Gordon asked when she would like to have these questions. She said that Drew Slater could send the members an e-mail asking the members to submit their questions within a specified amount of time. Then they could be e-mailed to Judge Kuhn with a copy to Jody Huber. Senator Sorenson said that the public could also submit questions of Judge Kuhn by e-mailing the Senator. Representative Maier said that they should talk about the 'Adam Walsh' issue and the sexual offender issue and what we can do about grandfathering offenders. Also, are they losing some of the children? These are extremely important issues.

The Senator then announced it was time for any public comment. She announced that she thought it might be a good idea to put a time limit on the amount of time someone could speak, since there seemed to be a number of people who wished to speak.

The first person to speak was John Flaherty of Common Cause. He said that the Commission seemed to be hearing different things than what he is hearing about Family Court. The two things he is hearing about Family Court is the secrecy of the proceedings and the difficulty in obtaining documents. He said that a couple years ago the reason the Family Court met in closed court was that because it was a statutory court. Two years ago there was a Constitutional amendment passed making them a Constitutional Court. He feels that this Motion that is required will probably require an attorney is a step backwards from the intent of the General Assembly which they passed Resolution 4 in 1997. He stated that these are the issues that he hears dealing with the secrecy of the proceedings and the difficulty in obtaining documents. Senator Sorenson asked John to put them on the list for Judge Kuhn when she is here in May.

The next speaker was Raetta McCall. She began by saying that many of the people here may not have seen the original Motion that people would fill out in order to go into court. It was simple to fill out and it is not anywhere to be found anymore. It goes into the court. I would imagine that they could notify the litigants with a form like that just by giving it a motion. Jody Huber spoke up and said there is no fee for filing that motion which is at least helpful. Raetta questioned why change it when if you want to change the procedure on how to do it – that is great – just notify everybody. The other thing she said is that we talk about grandparents. She stated that you really don't hear that much about the issues that grandparents have. She said that recently she has been in contact with '*Grandparents United*'. Senator Sorenson commented that that they always attend the Public Hearing. Raetta said that it goes back to the same issue that is across the board – the clogging of the court. One grandparent filed for a hearing to get custody of their grandchild that was given over to them by the daughter. That was nine months ago. Raetta questioned – what are we going to do about that? Raetta then addressed a question to Harry Gordon and asked if he had a sub-committee meeting to talk about the

Openness of Family Court? She continued by stating that she had asked if members of the public could be notified so that they could sit, as we do now, and hear what was going on with that. She said that at the next one when they do the drafting of their report, she would also like to be able to attend.

The next speaker was Sunday Haffen. She said that she was not going to restate the issue about the Child Custody Evaluator that needs to be changed. She said that she wanted to bring to everyone's attention a bill in California. Custody Evaluators seem to be a national issue. Bill #612 can be found at [www.leginfo.ca.gov](http://www.leginfo.ca.gov) and the intent of this bill is to reduce unnecessary psychological testing and prohibit the use of unscientific science by child custody evaluators. The child custody evaluator must meet all of the education, experience, and training requirements and possess a license in good standing.

Sunday then made the following suggestion by saying that in each county of Family Court they hire no less than two evaluators who are to be hired by the court in order to ensure no abuse of office in regard to fees that are charged. It is a well known fact that professionals who charge for their services have a pretension for abuse. An appeal should be made to the Budget Committee to procure monies to hire Evaluators, plus Social Workers, to oversee court decisions and mandates such as – are the children being cared for by the non-custodial parent – is the non-custodial parent providing appropriate care for the child or children – are visitors of disreputable character or alcohol abuse in the home of the primary or the non-custodial parent? The social workers are to provide their findings to the judge – not to the evaluator – hence no management of shared information can occur, and of course the benefit would be to the children. She said another suggestion is one that Raetta made and that is making available Family Court hours at least one evening during the week.

Senator Sorenson then said that this suggestion is one that the Commission hears a lot, and we will continue to bring that up to the Chief Judge. Sunday continued that there is a need to have a Committee or make an official request for a Contempt of Court Commission. She said she has taken these issues from previous meetings that the Commission has had.

Our next speaker to be recognized was Herman E. Row. Mr. Row began by talking about H.B. 124 from the 143<sup>rd</sup> General Assembly. When reading §728 I found the court already had the authority to deal with the problem of interference with visitation and custody. Senator Sorenson said that the Commission might be able to raise that question about that piece of legislation, H.B. 124, when the Attorney General comes in June.

The next speaker was Phyllis Witcher. \*Could not hear what she was saying at all during this time.) She said she would like to see this Commission pay some attention to divorce. She would like to see the Commission look at other issues besides children such as *criminalizing* adultery.

There was one more speaker and her name is Delema Fay Marsh. She had a PFA. She was married for almost 26 years and then they were divorced in June of 2003 and

made settlement. At this time Senator Sorenson stated that the Commission is unable to deal with an individual case. The Senator asked Jody Huber to look into information on Ms. Marsh's case. On one of the issues Jody made the clarification that the assault charge was dropped to a lesser violation. Jody explained then that this would not be a PFA, but that it would be a criminal matter. Senator Sorenson explained to Ms. Marsh that Jody is a representative of Family Court, and she will be able to look into this and be in touch with her.

Senator Sorenson made a motion to adjourn and Harry Gordon seconded it and the FLC adjourned at 11:55 a.m.

The next two meetings of the FLC are as follows:

**Thursday, May 10<sup>th</sup> at 9:30 a.m. in the Senate Hearing Room**  
**Thursday, June 14<sup>th</sup> at 9:30 a.m. in the Senate Hearing Room**

Respectfully submitted,

Jean C. Ardis, Secretary  
Family Law Commission