

**Family Law Commission**  
Meeting Minutes  
April 14, 2011  
9:30-11:30 - Senate Hearing Room

**Members Present:**

Lynn, Kokjohn, Chair  
Representative Bolden  
Diana Metzger  
Representative Ramone  
James Morning  
Senator Ennis  
WendyJean Matlack  
Eileen Williams  
Senator Sorenson  
Curtis Bounds  
Dr. Pillsbury  
Peg Smith

**Liaisons Present:**

Harry Gordon  
Bonnie Copeland  
Drew Slater, Assistant

**Guest Speakers:**

Commissioner Blades  
Adrienne Owen, DSP  
Jim McGiffin

The Family Law Commission met on Thursday April 14, 2011 to discuss PFA, False Allegations and Domestic Violence.

**Call to Order:**

The meeting was called to order at 9:34am.

The chair also mentioned that the commission cannot give any legal advice and only the members of the commission have voting power.

The chair thanked the speakers from the last meeting looking into what they said and sending information to the commission, which is now posted online on the Family Law Commission website (<http://flc.delaware.gov>).

**1. Approval of Minutes**

Unanimous approval of March 17, 2011 minutes with Representative Ramone making a motion to approve the minutes and Senator Ennis seconding the approval.

**2. Guest Speakers**

The chair recognized the speakers for the meeting. The first question was related to a jury trial. A speaker had asked at the public hearing why they could not request a jury trial and the answer is that the Family Court does not have jury trials in civil matters. In a criminal versus civil case, the burden of proof is different. In addition, Commissioner Blades mentioned that they have about 25 cases a week.

The conversations then turned to PFA and False Allegations. It was mentioned that the Commissioners and Judges must decide who they believe is telling the truth and who is not. It is always the right of the petitioner to withdraw or not show up at the PFA hearing. It is important to note that this does not mean that the PFA was not justified or warranted.

Commissioners/Judges will sometimes ask petitioners why they are withdrawing their PFA. They may ask if they have been promised anything or have been threatened if they continue with the filing.

A commission member asked about perjury in Family Court hearings. It was mentioned that Legislators could fund investigators in the Attorney General's office. Another question was whether there is anything in a PFA that could discourage the making of false allegations. Frequently, it is a he said, she said situation with no witnesses to the alleged abuse, and the Commissioners/Judges have to make the decision based on the relative credibility of the parties.

Of the statistics from the Domestic Violence Coordinating Council, it was shown that 34 percent of PFA's were voluntarily dismissed.

The next issue was involving the State Police and how they determine if a warrant is needed. Ms. Owen stated that the State Police can look at a person's demeanor, clothing, speak with the children, look at the whole situation and interview both parties involved. Through these measures, and others, they determine who would be more credible and determine if a warrant is needed.

The next question came about regarding a swim club or gym membership. The question was raised about if a PFA was filed would the respondent have to leave the gym if the petitioner joined the gym more recently? It was mentioned that you would have to look at who was there first. They may also modify the order to say "stay away unless at swim club/gym." It could be 30 days to hear that order.

We have also heard many respondents mention that the petition would call them and then file a motion if the respondent picks up the phone stating that they violated the PFA order. The speakers noted that it is not illegal for the petitioner to call the respondent. The respondent does have the right to file a PFA order if they believe the petitioner is harassing them. Another part of this question is how would the respondent know if something is wrong with the children if they cannot pick up the phone? There is case law that would allow him protection against this happening, which would be to file a cross PFA.

Another issue that we heard at the public hearing was the broad description of abuse. One of the speakers noted that violent name calling alone is not abuse although other judges or commissioners might reach a different conclusion depending on the circumstances. It was also mentioned that anger management is not automatically order in all cases.

If a parent has a PFA against them and they would like to have lunches with their children they must ask for an exception for school lunches and/or after school activities. A PFA order can be customized.

There are four pieces of legislation that the Governor recently proposed regarding gun safety. One piece of legislation pertains to destroying the weapons if they are not picked up after they were removed from the respondent in a PFA order. The speaker noted that there is no room for

the guns at the police. The reason that there is no longer any room is that people never come to pick up their property so they would like to dispose of the weapons.

A speaker at the public hearing mentioned that the petitioners could get legal help but that there was no help for the respondents. It was mentioned that the Community Legal Aid Society (CLASI) has one attorney for Kent County and one attorney for Sussex County. The petitioners would have to qualify for their services as there is currently no funding for additional lawyers.

A member of the public wanted to know how much CLASI received from the Violence Against Women Act. Mr. McGiffin mentioned that they currently did not qualify for this money but they did get some of the money through other grant applications with other organizations. He said that he would find out the amount and get back to us. He sent an e-mail to Drew Slater the follow day with a note stating that they are receiving \$71,732 from the Delaware Criminal Justice Council (CJC) under the VAWA S.T.O.P. program. It was also noted in the e-mail that they were not awarded a direct grant from VAWA from fiscal year (FY) 2011.

The commission discussed the speakers for the next meeting regarding open versus closed Family Court. It was mentioned that they would like to invite Eileen King, Regional Director for Justice for Children, Washington D.C., Tania Culley from the Office of the Child Advocate and Bonnie Copeland was going to talk with the Judges to find out data for how often they close the court. We are also to have the information compiled by Drew Slater on what the surrounding states are doing as well as our last table was from 2001.

### **Adjournment**

Thereafter, the meeting adjourned at 11:12am with a motion by Mr. Morning, seconded by Sen. Ennis.

Submitted by Drew Slater on behalf of the Family Law Commission Secretary, Representative Ramone.