

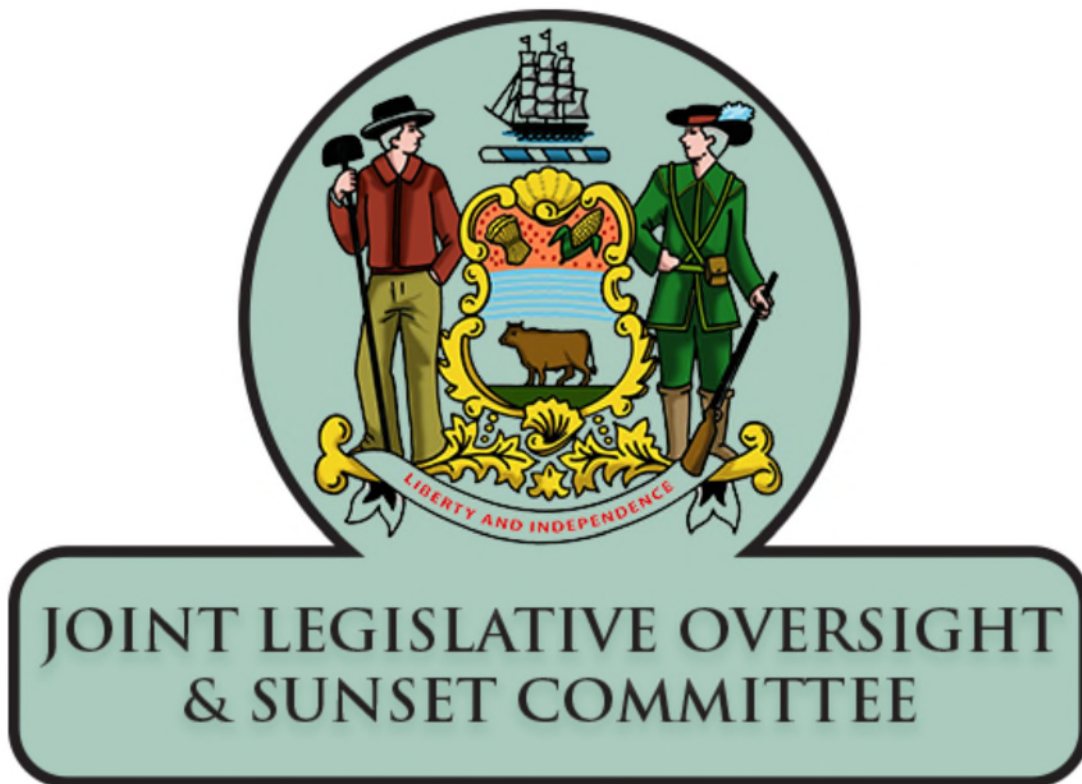
# Family Law Commission

## Self-Report

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*151<sup>st</sup> General Assembly*

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*Respectfully submitted to the  
Joint Legislative Oversight and Sunset Committee  
August 2021*

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## **ABOUT JLOSC AND THE REVIEW PROCESS**

The Joint Legislative Oversight and Sunset Committee (“JLOSC” or “Committee”) is a bipartisan body comprised of 5 members of the Senate appointed by the President Pro Tempore and 5 members of the House of Representatives appointed by the Speaker of the House.

JLOSC completes periodic reviews of state supported entities such as agencies, commissions, and boards following statutory criteria under 29 Del. Code, Chapter 102. The review’s purpose is to determine the public need for the entity and whether the entity is effectively performing to meet the need. The goal of the review is to provide strength and support to entities that are providing a State recognized need.

JLOSC performs its duties with support provided by the Division of Research’s dedicated and nonpartisan staff. JLOSC staff completes a performance evaluation of the entity under review and submits a Staff Report to JLOSC which includes analysis, key findings, and recommendations. Recommendations are not finalized until reviewed, discussed, and adopted by JLOSC with an affirmative vote of 7 members. In February 2022, JLOSC staff will schedule an in person public hearing for each entity under review to present to the Committee. For additional review information, please visit the Committee’s website at <https://legis.delaware.gov/Committee/Sunset>.

## **ABOUT THIS SELF-REPORT**

The JLOSC statute requires the entity under review to supply information and materials to facilitate a legislative oversight and sunset review. Additionally, the entity under review has the burden of showing, through the statutory review criteria, that there is a genuine public need and that the entity is meeting that need.

JLOSC staff supplies each entity under review with a Self-Report template and instructions. All questions appearing in this Self-Report are from the JLOSC staff created *JLOSC Performance Review Questionnaire* (“questionnaire”) and are the same for each entity under review. All questions appearing in the questionnaire use statutory review criteria. Throughout the questionnaire, the use of the broad term “board” refers to the entity under review, which may be a board, committee, commission, or council. The entity under review supplies review information by completing this Self-Report and is responsible for its contents and for forwarding all updates or corrections to JLOSC staff in a timely manner during the entire review period.

JLOSC staff will not edit or modify the information received in this Self-Report and only check for completeness and adherence to instructions. JLOSC members will receive completed Self-Reports and updates directly from their staff. The Committee’s website will include electronic copies of all Self-Reports and any updates received from entities under review.

# JLOSC PERFORMANCE REVIEW QUESTIONNAIRE

## **SECTION 1: AGENCY HISTORY, PURPOSE, AND FUNCTIONS**

**Section 1-A. Please provide a summary of your board's history. Highlight any key events.**

The Family Law Commission is created by the Delaware Legislature and serves the functions outlined by it specifically in the enabling statute, found at 13 Del. C. Section 2001, et. Seq.

**Section 1-B. What are the main functions of this board? Does this board issue any advisory or policy opinions? If so, where can they be found?**

As stated in the enabling statute, the commission conducts public hearings, invites written comment from the public, reviews and comments upon legislation affecting family law introduced in the General Assembly, serves as an advisory body to members of the General Assembly and publishes and disseminates information concerning family law to the public.

**Section 1-C. What condition(s), situation(s), and/or problem(s) existed prior to the creation of this board that directly led to its creation? Please provide specific examples.**

It is assumed that the public had less access to the legislature to express grievance or make comment about the family law process, especially as it relates to the enforcement of family law in the Delaware Family Court. The ability of individuals to express grievance or provide input is limited to their individual cases, and rights of appeal to the Delaware Supreme Court.

**Section 1-D. To what extent has the existence and functioning of this board alleviated each of these condition(s), situation(s), and/or problem(s)? Please provide specific examples.**

It is believed, although there is no data to prove it, that the Family Law Commission provides a safe and effect place for persons in contact with the family law and the Delaware Family Court to address the concerns found in Section 1-C, above.

**Section 1-E. Would the condition(s), situation(s), and/or problem(s) described in question "1-C" above recur or worsen, in the absence of the board?**

It is believed, although there is not data to prove it, that individual legislators would hear directly from their constituents more often, and that the only effective means for the General Assembly to hear from the public about family law or the Delaware Family Court would be from individual complaints, or if and when the Legislature chose to conduct committee hearings on applicable bills relating to family law and the Delaware Family Court.

Moreover, the Family Law Commission, as a body completely under the control of the General Assembly and therefore independent of the courts and the executive branch, serves as a group of

persons well-versed in family law and related subjects that legislators can turn to for feedback independent of other state agencies.

**Section 1-F. Are there any recent condition(s), situation(s), and/or problem(s) that further justify the need for the board's existence?**

No, the human condition has not changed.

**Section 1-G. Are there any functions of this board that are outdated and no longer needed? If so, please explain and provide examples.**

It is unknown. However, the FLC has not in many years been an educator to the public about family law or the Delaware Family Court. In the past 25 years, the Delaware Family Court has engaged in a great many programs and promulgation of materials, and the simplification of forms to make family law and the Delaware Family Court more accessible to litigants, especially pro se litigants. The FLC has neither the budget nor the staff to promulgate meaningful information about family law or the Delaware Family Court, nor is it able to provide legal advice.

## **SECTION 2: MISSION, GOALS, OBJECTIVES, & AUTHORITY**

**Section 2-A. What is the mission of this board? Does the enabling legislation accurately reflect the mission?**

As stated above, the FLC fulfills its mission primarily by listening and through the varied expertise of the Commissioners, comprised of lawyers, doctors, mental health professionals, concerned citizens, and legislators, giving contextual advice to the Delaware General Assembly through the members of the legislature that sit as Commissioners (4: 1 from each caucus and 2 from each chamber).

The enabling legislation in Chapter 481 of the 132<sup>nd</sup> General Assembly was approved on September 29, 1984, establishing a permanent Commission. The statute was amended once in 81 Laws C. 360, §1. Whether the legislation reflects the mission of the Commission is a question defined by agreement with the mission. Many come to the Commission seeking redress of wrong, or oversight of the Family Court. Constitutionally, these requests are not possible due to the separation of powers in the Delaware Constitution. The Commission does adequately inform the Delaware legislature of the problems inherent in the broad expanse of what may be defined as family law, and places before the Commission the legislative, executive and judicial remedies that are applied to them and inherent in a free society: both those permitted, e.g., divorce, and those prohibited, e.g., abuse of adults and children.

**Section 2-B. Please identify and explain the board's goals and objectives, in order of priority.**

- Listen
- Receive information, however anecdotal
- Contextualize anecdotal information
- Receive presentations from the various constituencies of family law and the Delaware Family Court, for example:
  - Division of Child Support Services

- Division of Family Services
- Office of the Child Advocate
- Office of the Chief Judge of the Delaware Family Court
- Delaware Domestic Violence Coordinating Council
- Ad hoc constituencies that form around specific issues, for example:
  - Parent’s rights
  - Grandparent’s rights
  - Victims of parental alienation in child custody cases
  - Persons who have been affected by false allegations of abuse in petition for protection from abuse cases
- Provide information to members of the General Assembly when asked to do so.

**Section 2-C. Please describe the internal performance evaluation system that the board uses to measure the attainment of its goals and objectives.**

There is none.

**Section 2-D. Does the board collect any data sets? If so, please identify and explain.**

No, at least not independent of any report or presentation as described in Section 2-B, below. The Commission does not try to make scientific the anecdotal information that it receives, and recognizes that the Commission often receives information that is one-sided.

**Section 2-E. Does the board conduct any research? If so, please explain and provide the location of research reports (if produced).**

The Commission has in the past conducted site visits of other family courts in the region to discover methods and practices used in those courts. Any summary of findings is included in the Annual Report to the Legislature. There are no recent past visits, or current visits planned at this time.

**Section 2-F. Has the State Auditor or any other external organization recently audited and/or evaluated the board or any of its programs? Please identify some of the major conclusions and/or recommendations. Provide links to all reports.**

No. The Commission does not have a budget. The General Assembly does reimburse Commissioners for mileage, tolls and occasionally, a meal—out of the petty cash ledger of the General Assembly.

**Section 2-G. In general, how do other states carry out similar functions?**

It is unknown.

**Section 2-H. Are your board’s functions similar or overlapping of other state or federal entities? If so, discuss how the board coordinates its services with other state or federal entities sharing similar objectives. Please explain why the functions are best placed within this board or why you feel they should be placed elsewhere.**

It is unknown.

## **SECTION 3: ACCOMPLISHMENTS**

### **Section 3-A. List and briefly explain the board's most significant accomplishments.**

The Commission was instrumental, it believes, in persuading the Delaware Family Court to adopt a process whereby litigants could obtain, at reasonable fee, a copy of the specially produced CD recording of their proceedings. The Delaware Family Court does not create real-time transcripts of proceedings, and a party may have a difficult time preparing for a subsequent hearing, or briefing an issue, or an appeal, without a record of what was said at a proceeding. For \$25, the Court now provides to a party or attorney a copy of the audio recording of the hearing. This change overcame a reluctance by the Court to issue recordings of the proceedings, and there had been incidences, years ago when the recordings were on cassette tape, of the audio being played for the unintended. There is one anecdotal account of a Court proceeding being played at a party.

## **SECTION 4: CHALLENGES**

### **Section 4-A. List and briefly explain 3 to 4 challenges the board is currently facing.**

The Commission has no dedicated staff; the Commission has no budget; sometimes the Commission does not sit at full complement of its members; the Commission does not have executive session with which to plan, as all meetings are open to the public (at one time the Commission did meet in executive session but was advised that such meetings were in violation of State law).

## **SECTION 5: OPPORTUNITIES FOR IMPROVEMENT**

### **Section 5-A. List and briefly explain several opportunities for improvements. Please prioritize.**

Amendment of one, any, or all the above, would give the Commission something with which to plan for any executive function—should the Legislature desire executive function from the Commission. Of note, the Family Law Commission is the only legislative Commission, per se, and as such sits primarily for deliberation, not action.

### **Section 5-B. In the past 5 years, have you recommended any changes to the Legislature, Governor's Office, or other State entity to improve the board's operations? If so, please explain and provide the outcome or current status?**

We have requested a permanent staff member; we have requested assistance from the Division of Research; we have requested ownership and control of our website, but understand that that too is a separation of powers issue (being controlled by the Executive Branch); we have requested revision to the enabling statute to better define doctors and mental health professionals, as sometimes we have not been able to secure a medical doctor or psychologist with a doctoral degree to serve on the Commission.

## **SECTION 6: COMPOSITION & STAFFING**

### **Membership:**

### **Section 6-A. How is board membership defined? Please explain and provide the section(s). Examples include statute, regulations, or by-laws.**

By statute.

**Section 6-B. Are there special qualifications for board membership?**

By statute, some members must have terminal degrees, e.g., lawyer, doctor. A Delaware Family Court Judge (active) also sits on the Commission.

**Section 6-C. Who has member appointment authority? Where is this defined?**

The membership is appointed jointly by the President Pro Tempore and the Speaker of the House. The Chair of the Commission designates one of the Commissioners as a secretary to the Commission, and also designates other Commissioners to chair the Commission meeting from time-to-time.

**Section 6-D. What is the designated term of office for board members? Where is this defined?**

3 years, as defined by the enabling statute.

**Section 6-E. How many members currently serve on this board? Are there any vacancies? If so, indicate the length of time each vacancy has existed and the reasons why. Has the board or support staff advised the Governor’s Office or appointing authority of the vacancies?**

The Commission presently has 15 members and one vacancy—for the position of medical professional. The vacancy has existed for several years and formerly required a medical doctor (one of two on the commission). Because of increasing difficulty in finding active medical doctors, the General Assembly changed the statute several years ago to fill the position with a “medical professional” which can be either an active or retired medical doctor, a nurse practitioner, a registered nurse or other professional. We have advised the offices of the President Pro Tempore and Speaker of the House of this vacancy and it is our understanding that efforts are ongoing by those offices to find a suitable appointee.

**Section 6-F. Can this board create subcommittees or task forces? If “yes” please address the following questions:**

- 1. Describe the process and site the board document (statute, regulations, or by-laws) that permits this.**

See above. The FLC will sometimes appoint a “task force” in name only but is restricted by the requirements for scheduling open meetings in a public form. During the tenure of the current Chair, the business of the FLC takes place at the regularly scheduled meetings.

- 2. Provide a brief history on how many have been created in the past 5 years and indicate where meeting documents can be found.** None
- 3. If final reports were issued, please provide their location.** Not applicable.



4. **If there are current subcommittees or task forces currently meeting and conducting business; include information on membership, duties, and where meeting documents can be found.** Not applicable.

**Section 6-G. Include a current membership roster with this Self-Report. This is a separate request from the list of supporting documents included in the Self-Report instructions. This current membership roster must indicate the following for each member:**

- **First and last name, and their city and state of residence.**
- **Position held (i.e., Chair, President, Co-Chair, Secretary, etc.).**

| <b>Member's Name and City and State of residence.</b> | <b>Position Held</b>     | <b>Professional or Public Member</b> | <b>Profession or Occupation</b> | <b>Original Appointment Date</b> | <b>Appointment Expiration Date</b> | <b>Number of Terms Served</b> |
|---|--------------------------|--------------------------------------|---------------------------------|----------------------------------|------------------------------------|-------------------------------|
| Curtis Bounds, Esq.<br>Wilmington, DE                 | Chair                    | Professional                         | Family Practice Attorney        | April 1, 2005                    | April 1, 2023                      | 6                             |
| Lawrence Britt Davis<br>Milford, DE                   | Member                   | Public                               | Lieut., DE Capitol Police       | April 1, 2009                    | April 1, 2024                      | 4                             |
| Kevin S. Hensley<br>Legislative Hall<br>Dover, DE     | Member                   | Professional                         | State Representative            | April 1, 2019                    | April 1, 2022                      | 1                             |
| Kelley M. Huff, Esq.<br>Wilmington, DE                | Member                   | Public                               | Attorney                        | April 1, 2017                    | April 1, 2023                      | 2                             |
| Kendra Johnson<br>Legislative Hall<br>Dover, DE       | Member                   | Professional                         | State Representative            | Jan. 1, 2019                     | Jan 1. 2022                        | 1                             |
| Peter B. Jones<br>22 The Circle<br>Georgetown, DE     | Member                   | Professional                         | Family Court Judge              | April 1, 2017                    | April 1, 2023                      | 2                             |
| Lynn M. A. Kokjohn<br>Rehoboth Beach, DE              | Member<br>(Former Chair) | Public                               | Citizen                         | April 1, 2003                    | April 1, 2022                      | 6                             |
| David G. Lawson<br>Legislative Hall<br>Dover, DE      | Member                   | Professional                         | State Senator                   | April 1, 2016                    | April 1, 2022                      | 2                             |
| Sarah McBride<br>Legislative Hall<br>Dover, DE        | Member                   | Professional                         | State Senator                   | April 1, 2021                    | April 1, 2023                      | 1                             |
| Raetta L. McCall<br>Middletown, DE                    | Secretary                | Public                               | Citizen                         | April 1, 2014                    | April 1, 2023                      | 3                             |
| Dr. M. Diana Metzger<br>Wilmington, DE                | Member                   | Professional                         | Family Practice Physician       | April 1, 2009                    | April 1, 2022                      | 4                             |

|   |        |              |  |                  |                  |   |
|---|--------|--------------|--|------------------|------------------|---|
| James Morning<br>Dover, DE                    | Member | Public       | Citizen  | April 1,<br>2009 | April 1, 2024    | 5 |
| Zach Radcliff,<br>Ph.D.<br>Wilmington, DE     | Member | Professional | Child<br>Psychologist  | April 1,<br>2021 | April 1,<br>2024 | 1 |
| Aimee V. String<br>Felton, DE                 | Member | Public       | Citizen  | April 1,<br>2017 | April 1. 2023    | 2 |
| William J.<br>Walls, Jr., Esq.<br>Milford, DE | Member | Professional | Family<br>Practice<br>Attorney<br>(Retired<br>Family Court<br>Judge) | April 1,<br>2017 | April 1, 2024    | 2 |

- **Professional or public member.**
- **Their profession or occupation.**
- **Original appointment date, expiration date, and number of terms served.**

**To satisfy this current membership roster request, you may do one of the following:**

- **Complete the included table below.**
- **Delete the included table below, build your own table, and place in this section.**
- **Delete the included table below and attach a document to the Self-Report and label in the appendices section.**

### **Meeting Frequency:**

**Section 6-H. How frequent are meetings held? Is meeting frequency defined anywhere such as the statute or by-laws? If so, provide document name and section information.**

The FLC is required to meet 4 times per year including one public meeting. The FLC historically has met 5 to 6 times per year, during the Legislative session excepting the month of February. The FLC has had meetings in the evening, other than the public meeting, to accommodate public participation surrounding special topics—and has also had meetings in the Fall/Winter, outside of the Legislative session. After experimenting with these different times and dates, the FLC has devolved back to meeting as follows: January (Public Meeting, in the evening of the 3<sup>rd</sup> Thursday—usually coinciding with the opening of the Legislative Session), March, April, May and June, all on the morning of the 3<sup>rd</sup> Thursday of the month, customarily at 9:30 a.m., for approximately 2 hours. The COVID19 pandemic required meetings to occur by remote web access but the FLC plans to return to in-person meetings in 2022.

**Section 6-I. Can the board hold special or emergency meetings? If so, describe the protocol involved in requesting and holding a special or emergency meeting.**

The Chair can call a meeting but is not aware of any precedent.

### **Meeting Order and Quorum:**

**Section 6-J. For meeting order, does the board follow Mason’s Manual of Legislative Procedure or Roberts’ Rules of Order? Is this defined in statute, regulation, or by-laws?**

Roberts' Rules of Order.

**Section 6-K. How is meeting quorum defined and where is the definition located?**

2/3's. Roberts'.

**Member Removal:**

**Section 6-L. Is there a mechanism for member removal? If so, how are members removed and who has the authority to remove a member? Using the process described, has there ever been an instance of member removal, and if so, briefly describe the nature of events that led to the member removal.**

The President Pro Tempore and the House Speaker have the sole powers of appointment and dismissal. Commissioners historically leave the FLC by resignation.

**Member Compensation:**

**Section 6-M. Are board members compensated? If so, how are they compensated?**

No.

**Member Training and Handling Conflicts of Interest:**

**Section 6-N. Are board members offered any special training opportunities? Is training required or voluntary?**

No.

**Section 6-O. Has a Deputy Attorney General ("DAG") reviewed the provisions of the Public Integrity Act with board members to ensure that they are complying with the provisions in the law? If so, what is the frequency of this review?**

From time to time, the FLC is advised of its statutory obligations, by counsel to the Legislature.

**Section 6-P. Please explain how board members avoid conflicts of interest.**

Individual cases are not deliberated over by the FLC, even if a member of the public expresses facts or opinions about his or her case. A Commission member may comment or display concern, but if a member of the Commission is involved in the proceeding, e.g., a Judge or a witness or a party, that Commission member does not participate in any discussion.

**Section 6-Q. Has the Public Integrity Commission ("PIC") provided training or clarification to board members or issued any advisory opinions on board activities? If so, please explain the details. Provide a link to the information or attach relevant information to this report.**

No, not that the FLC is aware.

**Support Staff:**

**Section 6-R. Is there dedicated support staff *directly* assisting the board? If so, what state agency or entity supplies the support staff?**

- **If this question is applicable answer all questions in this section.**

- **If not applicable, state that no support staff exists for question Section 6-R and explain how board duties are divided among members, skip to questions Section 6-Y and Section 6-Z below.**

Legislative staff does assist the FLC but is not specifically assigned. Customarily, a legislative aide to the ranking Senator on the FLC assists with the business of the FLC, e.g., taking minutes.

Mr. Dick Carter, Director of Special Projects of the Senate Majority Caucus, provides part-time assistance to the FLC. We also have part-time assistance from Ms. Colinda Marker of the Division of Research.

**Section 6-S. How many employees are employed by the state agency or entity supplying support staff? (skip if not applicable)**

**Section 6-T. Does the state agency or entity supplying support staff offer internships? If so, do interns provide support services to the board? (skip if not applicable)**

The Delaware General Assembly has Legislative Fellows who work each year for the two houses during the period when the legislature is in session, but because of their schedules and other duties they are not available to assist the Family Law Commission.

**Section 6-U. What is the size of the support staff *directly* assisting the board? How many are merit, appointed, exempt, temporary, casual seasonal, or contract employees? For contract employees indicate who holds the employment contract. Highlight support staff responsibilities, indicate who performs each and the percent of staff time spent on each responsibility. (skip if not applicable)**

**Section 6-V. Who supervises the support staff *directly* assisting the board? (skip if not applicable)**

The Commission chair.

**Section 6-W. How is the support staff *directly* assisting the board recruited and hired? Is there an orientation session for new hires? (skip if not applicable)**

**Section 6-X. What training opportunities are available to support staff *directly* assisting the board? (skip if not applicable)**

**Section 6-Y. Is the effectiveness of the board hindered by a lack of staff assistance or dedicated support staff? Please explain. What steps, if any, have been taken to address any staffing issues? (all entities under review answer this question)**

**Section 6-Z. Please identify, list, and briefly describe any executive orders, interagency agreements, management directives, administrative circulars, or like documents that directly impact the functioning of the board. (all entities under review answer this question)**

## **SECTION 7: FREEDOM OF INFORMATION ACT (“FOIA”) COMPLIANCE**

**Section 7-A. How does the board respond to FOIA requests?**

It has not received any, to our knowledge. All of the business of the FLC is public and available on its website when published, e.g., minutes, annual reports.

**Section 7-B. When and where are the meeting agendas posted?**

On-line. They are handed out at the FLC meetings. Mr. Carter may post them on bulletin boards at various locations in Legislative Hall.

**Section 7-C. Are meeting minutes regularly transcribed? When and where can the public obtain copies of meeting minutes?**

Yes, on-line.

**Section 7-D. Are meetings recorded? If so, indicate whether it’s an audio or video recording and is the recording posted online for the public? If the recordings are not posted online, are instructions provided to the public on how to request recordings?**

Yes, in aid of taking the minutes. The public meeting in January is recorded.

**Section 7-E. Within the past 3 calendar years, has the agency conducted executive sessions or other closed meetings? If yes, please indicate the date of each and the nature of the meeting. Are minutes of executive sessions or other closed meetings available to the public?**

No.

**Section 7-F. Has the agency ever received any complaints that they were violating FOIA? If so, please list and include the result of the hearing or the review.**

No.

## **SECTION 8: ADMINISTRATIVE PROCEDURES ACT COMPLIANCE**

**Section 8-A. Does the board promulgate rules or regulations in accordance with the Administrative Procedures Act?**

No.

**Section 8-B. Has a DAG assigned to this board reviewed the current rules and regulations for compliance with the governing statute?**

No. There is no assigned DAG. The FLC is not an administrative entity, but rather is a legislative entity.

**Section 8-C. Is the board considering any changes to its current rules and regulations? If "yes" please address the following questions: No.**

- 1. What is the status and nature of the planned changes?**
- 2. Have the proposed changes been reviewed and approved by the agency's Deputy Attorney General?**
- 3. Have the proposed changes and the public hearing date been published in the Register of Regulations?**

## **SECTION 9: COMPLAINT AND DISCIPLINARY PROCESS**

**Section 9-A. Please describe in detail the complaint process utilized to resolve disputes between the board and the public, including how complaints are filed, who investigates complaints, and how long investigations proceed.**

There is none, other than the public complains regularly that the FLC has no executive, legislative or juridical power, which is true.

**Section 9-B. What are some of the most common complaints received by the board? Please identify where the complaints originate (i.e., public, media, Attorney General's Office, consumer groups, etc.).**

See above. The FLC has colloquially been referred to by some its chief complainers (no doubt quoting each other) as the "do nothing [sic] Family Law Commission."

**Section 9-C. Have any complaints been filed with the Attorney General's Office? If so, have they been resolved?**

None of which we are aware.

**Section 9-D. Are there any Delaware Attorney General's Opinions that affect the functioning of the board? If so, please provide the date and number.**

Unknown.

**Section 9-E. Are there any recent judicial decisions (state or federal) that directly affect the functioning of the board?**

Not aware of any.

**Section 9-F. What specific disciplinary actions were taken by the board as a result of complaint investigations? (i.e., license revocation, license suspension, formal reprimand, penalty, etc.).**

N/A.

**Section 9-G. Please describe in detail the process utilized for determining appropriate disciplinary actions taken against individuals licensed, employed, or monitored by the board. Include the appeals process, if applicable.**

There are none.

**Section 9-H. If applicable, provide the following complaint data for calendar years 2018, 2019, 2020, and 2021 (to date):**

|  | Calendar Year 2018 | Calendar Year 2019 | Calendar Year 2020 | Current Calendar Year 2021 |
|--|--------------------|--------------------|--------------------|----------------------------|
| Total Number of Complaints Received by the Board             |                    |                    |                    |                            |
| Total Number of Complaints Investigated                      |                    |                    |                    |                            |
| Total Number of Complaints Found Valid                       |                    |                    |                    |                            |
| Total Number of Complaints Forwarded to the Attorney General |                    |                    |                    |                            |
| Total Number of Complaints Resulting in Disciplinary Action  |                    |                    |                    |                            |

**SECTION 10: PRIOR JLOSC REVIEW**

**Section 10-A. Has JLOSC previously reviewed this board? If so, provide the year(s) of review and list all JLOSC final recommendations, indicate whether the board is complying or non-compliant with each recommendation, and explain all areas of non-compliance.**

No.



## SECTION 11: PUBLIC INFORMATION

**Section 11-A. How does your board communicate information with the public? Does your board use a website and/or social media platform(s)? If so, please list each method of communication and supply the applicable web address, handle, or username.**

Public meeting once a year reserved for public comment and presentation only (no or little business of the FLC is discussed at the annual public meeting); public invited to all meetings and permitted to participate during the meetings, and specifically at the end, which part of the meetings are reserved for public comment with time permitting. Public is also permitted and encouraged to write to the FLC.

**Section 11-B. What information or educational resources are made available to the public relating to the board’s activities? Examples include newsletters, guidelines, rules and regulations, policy briefs, or other similar documents. Please indicate the method and frequency of distribution for each and identify the target group(s).**

All public pronouncements of the FLC are on the FLC’s website, subject to publication of materials and updating of the website. Control of the website is an issue, see above.

**Section 11-C. Does your board actively engage with the public and solicit feedback? If so, please explain. If the board has conducted surveys, please list all surveys conducted within the past 5 years and indicate where the public can find survey results.**

The FLC has never to our knowledge issued a survey.

**Section 11-D. Does your board have by-laws? If so, are they available for the public (include location) and what was the last date of revision?**

No.

**Section 11-E. Please complete the following 3 charts (add or delete cells as needed) with the most current information regarding interest groups, national organizations, and industry or trade publications as described in each chart heading.**

| Interest Groups<br>(Groups affected by board actions or represent others served by or affected by board actions) |                  |              |
|--|------------------|--------------|
| Group or Association Name/Contact Person   | Internet Address | Phone Number |
| Name of group  |                  |              |
|  |                  |              |
|  |                  |              |
|  |                  |              |

| National Organizations or other State Entities<br>(that serve as an information clearinghouse or regularly interact with the board) |                  |              |
|---|------------------|--------------|
| Group or Association Name/Contact Person  | Internet Address | Phone Number |
| Name of group   |                  |              |
|   |                  |              |
|   |                  |              |
|   |                  |              |
|   |                  |              |
|   |                  |              |

| Industry or Trade Publications           |                  |              |
|--|------------------|--------------|
| Group or Association Name/Contact Person | Internet Address | Phone Number |
| Name of group                            |                  |              |
|  |                  |              |
|  |                  |              |
|  |                  |              |
|  |                  |              |
|  |                  |              |

## SECTION 12: ENACTED LEGISLATION IMPACTING THE AGENCY

**Section 12-A. Did legislation establish the board? If so, what year and by what legislative bill was the agency established?**

Yes. 13 Del. C. §2001 et seq.

**Section 12-B. Please list all legislative bills and other acts that have made substantive amendments to the board's enabling legislation. Please indicate the bill number and date of enactment for each.**

64 Del. Laws, c. 481, §1; 65 Del. Laws, c. 175, §§1, 2; 66 Del. Laws, c. 386, §1; 72 Del. Laws, c. 153, §1; 81 Del. Laws, c. 360, §1

**Section 12-C. Please identify, list, and briefly describe any federal laws or regulations that guide or otherwise directly affect the functions, responsibilities, and operations of the board.**

None.

**SECTION 13: PENDING & PROPOSED LEGISLATION**

Section 13-A. Please list any currently proposed legislation (state and federal) that, if passed, will directly impact the functions or operations of the board. Please indicate any bills that the board is supporting or opposed.

None.

**SECTION 14: FISCAL INFORMATION**

Section 14-A. Complete the following chart to provide the board’s actual revenue for FY19 and FY20 and budgeted revenue for FY21. Also indicate the source of funds (i.e., general fund, federal funds, special funds, etc.).

Revenue:

| Fiscal Year            | Source of Funds | Amount        |
|------------------------|-----------------|---------------|
| <b>FY21 (budgeted)</b> |                 |               |
|                        | General Funds   | \$0.00        |
|                        | Federal Funds   | \$0.00        |
|                        | Special Funds   | \$0.00        |
|                        | <b>TOTAL:</b>   | <b>\$0.00</b> |
| <b>FY20 (actual)</b>   |                 |               |
|                        | General Funds   | \$0.00        |
|                        | Federal Funds   | \$0.00        |
|                        | Special Funds   | \$0.00        |
|                        | <b>TOTAL:</b>   | <b>\$0.00</b> |
| <b>FY19 (actual)</b>   |                 |               |
|                        | General Funds   | \$0.00        |
|                        | Federal Funds   | \$0.00        |
|                        | Special Funds   | \$0.00        |
|                        | <b>TOTAL:</b>   | <b>\$0.00</b> |

Section 14-B. If the board receives federal funds, including grants, please indicate the following:

- Total amount of federal funds.
- Type of federal fund.
- State/Federal Match Ratio.
- State Share of Dollars.
- Federal Share of Dollars.

**Section 14-C. Does the board collect any fees or fines? Provide information on any fines or fees collected by the agency:**

| Description of Fine or Fee | Current Fine or Fee \$\$ | Number of Persons or Entities Paying Fine or Fee | Fine or Fee Revenue \$\$ | Where is the Fine or Fee Revenue Deposited? (i.e., general fund, special fund) |
|----------------------------|--------------------------|--|--------------------------|--|
|                            |                          |  |                          |  |
|                            |                          |  |                          |  |
|                            |                          |  |                          |  |

**Section 14-D. Has the board conducted a financial analysis to determine if the current fees are sufficient to cover the cost of the administrative activity related to each? Do the current fees or fines need to be updated or revised? Please explain, indicating whether the fees or charges can be changed directly by the agency or if legislative approval is required.**

**Section 14-E. Complete the following chart to provide the board’s actual expenditures for FY19 and FY20 and budgeted expenditures for FY21. Also indicate the source of expenditures (i.e., general fund, federal fund, special fund, etc.).**

**Expenditures:**

| Fiscal Year            | Source of Funds | Amount        |
|------------------------|-----------------|---------------|
| <b>FY21 (budgeted)</b> |                 |               |
|                        | General Funds   | \$0.00        |
|                        | Federal Funds   | \$0.00        |
|                        | Special Funds   | \$0.00        |
|                        | <b>TOTAL:</b>   | <b>\$0.00</b> |
| <b>FY20 (actual)</b>   |                 |               |
|                        | General Funds   | \$0.00        |
|                        | Federal Funds   | \$0.00        |
|                        | Special Funds   | \$0.00        |
|                        | <b>TOTAL:</b>   | <b>\$0.00</b> |
| <b>FY19 (actual)</b>   |                 |               |
|                        | General Funds   | \$0.00        |
|                        | Federal Funds   | \$0.00        |
|                        | Special Funds   | \$0.00        |
|                        | <b>TOTAL:</b>   | <b>\$0.00</b> |

**Section 14-F. Provide a detailed breakdown of FY21 budgeted expenses.**

**Breakdown of FY21 budgeted expenses:**

| Line Item | Source(s) | Amount of Expenditures |
|-----------|-----------|------------------------|
|           |           |                        |
|           |           |                        |
|           |           |                        |
|           |           |                        |



**Section 15-B. Please provide the following data for each license, certificate, or approval notice issued by the board during calendar years 2018, 2019, 2020, and 2021 (to date). Include additional charts, if necessary:**

**Name of license issued by the board:** \_\_\_\_\_

|   | <b># of License Applications Received</b> | <b># of License Applications Approved</b> | <b># of Licenses Issued</b> | <b># of Licenses Rejected</b> | <b># of Licenses Revoked</b> |
|---|---|---|-----------------------------|-------------------------------|------------------------------|
| <b>Calendar Year 2018</b>                   | 0   | 0   | 0                           | 0                             | 0                            |
| <b>Calendar Year 2019</b>                   | 0   | 0   | 0                           | 0                             | 0                            |
| <b>Calendar Year 2020</b>                   | 0   | 0   | 0                           | 0                             | 0                            |
| <b>Current Calendar Year 2021 (to date)</b> |   |   |                             |                               |                              |

**Name of license issued by the board:** \_\_\_\_\_

|   | <b># of License Applications Received</b> | <b># of License Applications Approved</b> | <b># of Licenses Issued</b> | <b># of Licenses Rejected</b> | <b># of Licenses Revoked</b> |
|---|---|---|-----------------------------|-------------------------------|------------------------------|
| <b>Calendar Year 2018</b>                   | 0   | 0   | 0                           | 0                             | 0                            |
| <b>Calendar Year 2019</b>                   | 0   | 0   | 0                           | 0                             | 0                            |
| <b>Calendar Year 2020</b>                   | 0   | 0   | 0                           | 0                             | 0                            |
| <b>Current Calendar Year 2021 (to date)</b> |   |   |                             |                               |                              |

**Section 15-C. Do licenses issued by this board have reciprocity or endorsement agreements with Delaware? If so, provide a list of all states and jurisdictions that have licensing reciprocity or endorsement agreements with Delaware. Indicate if the board requires a signed agreement or endorsement from another state or jurisdiction before a Delaware license is issued?**

**Application Fees:**

**Section 15-D.** Are any application fees collected by the board? If so, complete the chart below.

| Fee Type | Application Fee |
|----------|-----------------|
| Fee Type | \$0             |
|          | \$0             |
|          | \$0             |
|          | \$0             |
|          | \$0             |

**Section 15-E.** If application fees are collected, when are fees due? Where are fees deposited? What happens if the fee is not paid? Are there any reduced fee options?

**Section 15-F.** If application fees are collected, has the board conducted a financial analysis to determine if the current application fees are sufficient to cover the cost of processing applications? Do the current application fees need to be updated or revised? Please explain, indicating whether the application fees can be changed directly by the agency or if legislative approval is required.

**Application Process:**

**Section 15-G:** Describe the application review process. Include where applications are obtained. Who reviews applications? How are applicants informed of decisions?

**Examinations:**

**Section 15-H.** If there is an examination requirement to obtain a license, address the following questions:

1. Is the examination written, oral, or both?
2. Is a standardized national examination used?
3. Who develops and scores the exam?
4. Are all aspects of the examination validated?
5. Who administers the exam, where is it administered, and how often is the exam given?

6. During each of the previous three calendar years, how many persons sat for an exam, and of those, how many successfully passed?

## **SECTION 16: RECONSIDERATION, APPEAL, SANCTIONS, REVOCATION**

### **Reconsideration:**

**Section 16-A:** Is there a process for application or board decision reconsideration (a process prior to a formal appeal, sometimes referred to as an administrative reconsideration)? This could also apply to reconsidering budget decisions made by the board. If so, please explain.

### **Appeal:**

**Section 16-B:** Can an applicant, group, or individual appeal a board decision? If so, explain the process for appeal.

### **Sanctions:**

**Section 16-C:** Can the board issue sanctions? If so, explain the sanction process.

### **Revocation:**

**Section 16-D:** Does the board have a revocation process? If so, explain the process.

## **SECTION 17: SELF-REPORT AUTHOR(S)**

**Section 17-A:** Include all Self-Report author(s) and contact information below.

- All Self-Report author(s) listed below certify the information supplied in this Self-Report is correct to the best of their ability.
  - **Reminder to entity under review:** Any updates or corrections to Self-Report contents and entity information must be submitted to JLOSC staff in a timely manner during the entire period of review.

Curtis P. Bounds, 600 N. King St., Ste. 400, Wilmington, DE 19801

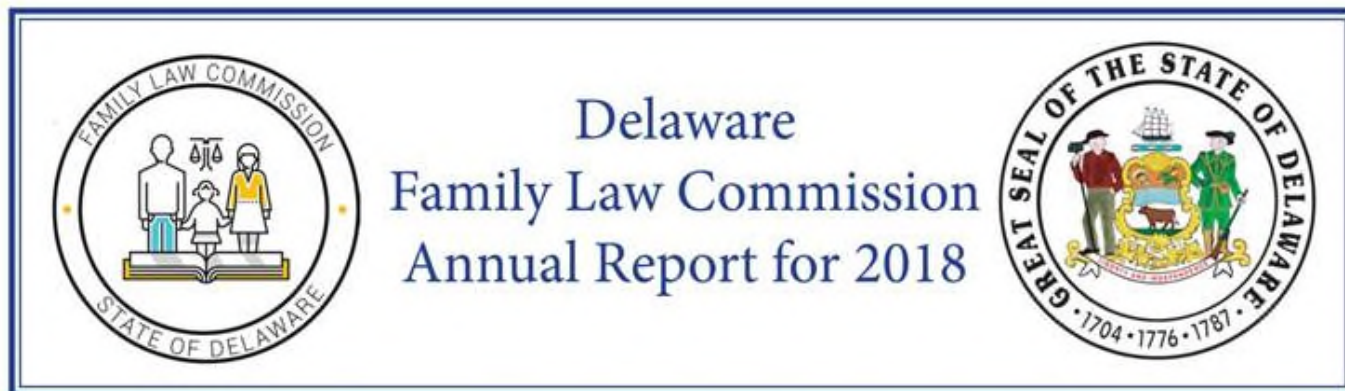
[cbounds@bayardlaw.com](mailto:cbounds@bayardlaw.com)

302-429-4221 (office)

**Section 17-B:** This Self-Report was submitted to JLOSC staff on: draft Aug. 31, 2021, revised October 4, 2021



# APPENDICES



Legislation establishing the Delaware Family Law Commission (FLC) was signed into law on September 29, 1984. The Commission was established for the following purposes:

- (1) to conduct public hearings;
- (2) to invite written comments on family law from members of the public
- (3) to review and comment upon legislation affecting family law introduced in the General Assembly at the request of any member of the General Assembly, or on its own initiative and;
- (4) to disseminate information concerning family law to the public.

**(Note: A copy of the Family Law Commission enabling statute is located at the end of this report)**

The FLC meets in Legislative Hall four to six times a year, including several meetings when the legislature is in session. The 2018 meetings were held on January 18 (Annual Public Hearing), March 15, April 19, May 17, and September 20.

### **2018 Members of the Delaware Family Law Commission**

Curtis Bounds, Esq., Chair

#### **Kent County**

Senator David Lawson, James Morning, Aimee String, Esq., Judge Bill Walls (Ret.)

#### **New Castle County**

Rep. Stephanie Bolden, Senator Stephanie L. Hansen, Kelley Huff, Esq., Raetta McCall, Dr. Diana Metzger, Rep. Michael Ramone

## Sussex County

Lawrence Britt Davis, Dr. Twain Gonzales, Judge Peter B. Jones, Lynn Kokjohn

### **Assistants to the Family Law Commission**

Dick Carter, Delaware State Senate staff  
Jennifer Parrish, Delaware State Senate staff  
Colinda Marker, Delaware State Senate staff

## **A Summary of the Commission's work during 2018**

### **Annual Public Hearing Thursday, January 18, 2018**

#### **Speakers:**

**Speaker No. 1** spoke of his efforts over the past six years to try to bring about a change in **Title 13, Chapter 7A, § 724A of the Delaware Code, titled, "Rebuttable presumption against unsupervised visitation, custody or residence of a child to a sex offender"**. He expressed his frustration over his unsuccessful efforts to date to have this statute changed. He contended that the wording of the statute has been unfairly used to keep him from seeing his child and expressed the view that parts of it are unconstitutional.

The speaker also addressed the subject of the serving of documents by the Delaware Family Court. He noted that at the present time a petition is filed with the court. The court then directs that notice be served on the respondent. He said that this process is carried out by a private company and that company's sub-contractor, giving the respondent 20 days to respond. He said that the respondent is not required to sign a document indicating that the service has been carried out. He expressed the view that it would be much less expensive and more effective if the notice was sent to the respondent by means of certified mail, requiring the respondent to sign for the document, thus indicating that the notice has been received.

**Speaker No. 2** addressed the commission on the subject of the problem of parental alienation, and the need for public education and a public response to the problem. He spoke about the work of the

Parental Alienation Study Group, a national organization based in Nashville, TN, and it's Committee for Public and Professional Accountability.

He said that at the present time there is no process being used in Delaware to educate families about parental alienation. Nor, he said, is there an effective process to prompt investigation of parental alienation as an abnormal family dynamic. He cited House Concurrent Resolution 72, now pending before the U.S. Congress (<https://www.congress.gov/bill/115th-congress/house-concurrent-resolution/72/text>), "Expressing the sense of Congress that child safety is the first priority of custody and visitation adjudications, and that State courts should improve adjudications of custody where family violence is alleged." (*Note: Following its introduction on 7-24-2017, the bill was referred to the House Committee on the Judiciary, where it remains.*).

The speaker said the Family Court website should provide basic information on the subject of parental alienation on its website. He also proposed the appointment of a neutral, court-appointed specialist to investigate allegations of parental alienation with a family, should they arise during court proceedings.

**Speaker No. 3** expressed his view that the Family Law Commission's statute should be rewritten to give the commission the authority to investigate allegations of abuses relating to the issuance of Protection from Abuse orders (PFA's). He cited a survey among lawyers and court personnel in Delaware which found that "PFA's are being abused."

He also spoke of what he feels are inconsistencies in mediation and in the determination of child support. He said that there needs to be more oversight and an actual path for complaints and a way to ensure that they are addressed.

The speaker completed his remarks by urging the commission to "push for better continuing education for the court staff." He said that the outcome of one's case should not depend on "who has the fanciest attorney."

**Speaker No. 4** representing the Delaware Coalition Against Domestic Violence, spoke about the ongoing need for victims and their families to be able to seek and access safety through our court system. She said that even after 20 years of advocacy and focused attention on the need for enhancing victim safety, while much has been done, there is still much to do. She said that, "the reality is that the majority of victims continue to have to face their abuser in court without legal representation." She

spoke of the shortage of available legal representation for many of the most complex court proceedings. She noted that even those services that have been available are in danger of being cut substantially because of budget constraints at the state level and the likelihood of a reduction in the availability of federal grant funding.

**Speaker No. 5** spoke of her experience with the Family Court system since 1999. She said that a PFA was issued against her on the basis of false information provided to the court. She said that she did not know how to prove that the person who provided the false information was lying. She added that she obtained information years after the fact that supported her side of the story but that “information beyond two years is not really listened to.” She asked how the court handles an instance in which “you just found out about something from 10 years ago.” She expressed her belief that “almost 80 percent of abusers get custody.”

**Speaker No. 6** spoke about his Family Court case involving an issue with his ability to have an ongoing relationship with the daughter of his former girlfriend. He said that even though there is no blood relationship between them, he has been a father figure in the girl’s life and that this relationship was ended when his former girlfriend filed for the issuance of a PFA against him, based on false information. He said that she later alleged that he had violated the PFA and that the case against him for the alleged violation was subsequently dismissed. He expressed the view that the family court system “is designed to favor women” and that a lack of access to legal representation is causing “an epidemic of false allegations.” He said that there has been an 18 percent increase in the number of PFA’s applied for and that “it is time people open their eyes.”

The speaker said that he has been amazed at the manner in which the issuance of a Protection from Abuse Order can result in what amounts to the loss of the constitutional rights of the person against whom the order has been issued

## **Summary of the Family Law Commission Meeting Thursday, March 15, 2018**

### **Discussion of the topic of Parental Alienation**

The topic of Parental Alienation had been discussed at the January public hearing. One speaker discussed the work of a national organization based in Nashville, TN, known as the Parental Alienation Study Group and its Committee for Public and Professional Accountability. Mr. Carter said that a letter

had been received from that organization offering to put on a presentation on the subject of parental alienation for the Commission.

Judge Jones reported on an information session on Parental Alienation provided for Family Court judges by Drs. Romirowsky and Zingaro. He spoke to the fact that there are various points of view within the psychology/counseling profession as to the validity of Parental Alienation and that it is important for the Commission to receive a balanced view of the topic. Chairman Bounds also addressed the need for a balanced approach. He also noted that there have been changing views of the subject within psychology circles over the years.

The Commission discussed the topic and there was a consensus among the members that it would be useful for a panel discussion to be held at the September meeting, on which experts holding several different points of view could be represented.

#### **Discussion of Parental Education Classes**

Members of the Commission also discussed the value of having commission members take an abbreviated version of the Parental Education classes mandated for parents in the process of divorce. Ms. String said that the organization Turning Point at People's Place offers these courses and that it might be possible to arrange for them to provide this kind of session. Chairman Bounds said he feels it would be helpful for commission members to be familiar with the classes and that such a session could be arranged for some future time.

#### **Family Court Committee on Child Support**

Commission member Kelley Huff gave a brief presentation on her work as a member of the Family Court Child Support Review Committee, representing the Family Law Commission. Former commission member, Senator Bruce Ennis is also serving on the committee. The committee is convened at intervals to consider any changes needed in the child support formula used by the Family Court. There was a discussion by commission members of various aspects of the formula and its application and financial hardships that are faced by many of those who are required to pay child support.

#### **Discussion of legislation to amend the Family Law Commission Enabling Statute**

For some time, the commission has been discussing possible changes to the Family Law Commission's enabling statute to modify the existing requirement for a licensed family practice

physician and a license pediatrician to serve. With the gradual shift to large group practices in the medical profession in recent years, it has become increasingly difficult to find medical doctors who have the time to serve on the commission, particularly during the day. Consideration has been given to amending the requirements to allow nurse practitioners, physician assistants, retired doctors and others with knowledge of family medicine to serve. There are other minor modifications that are needed. Chairman Bounds asked Ms. Huff, who serves as a Senate attorney, to draft legislation for consideration by the commission.

### **Discussion of Commission Appointments/Reappointments**

Chairman Bounds noted that the terms of five commission members will expire in April, 2018. These are Rep. Michael Ramone, Mr. James Morning, Judge William Walls (retired), Mr. L. Britt Davis, and Mr. Bounds himself. The names of those who are willing to be reappointed will be submitted to the President Pro Tempore of the Senate and the Speaker of the House to be considered for reappointment.

### **Other possible subjects for upcoming meetings**

Chairman Bounds asked commission member Raetta McCall for her thoughts on various topics of value to the commission that could serve as the subject for upcoming meetings. Ms. McCall suggested the following:

#### **Discussion of additional training for pro se litigants**

She noted that with 80 to 85 percent of the cases coming before Family Court involving pro se litigants (those not represented by attorneys), it is extremely important that persons who are going to be representing themselves in Family Court have the best possible training beforehand. She said that while there are resources for pro se litigants available on the court's website, these could be greatly improved.

#### **Greater use of e-filing and ways of allowing litigants to file court documents at more convenient times**

Ms. McCall stressed the need for the commission to discuss ways the process of filing court documents can be made more convenient for litigants. She emphasized that the considerable amount of time required for pro se litigants to deal with court-related matters during working hours can jeopardize their employment.

### **Family Court Survey Form**

Ms. McCall noted that some years ago the Delaware Family Court conducted a survey among attorneys as to the jurisdiction of Family Court, court procedures, etc. She advocates having the commission consider doing such a survey for pro se litigants.

### **Ways to conduct research into Family Court-related matters**

Ms. McCall would like the commission to study ways in which subjects of importance to Family Court can be more fully researched. There was some discussion about the possibility of having Delaware legislative committees conduct such research, as is often done at the U.S. Congressional level. The problem is that Congressional committees have full-time staff who can conduct such research, while state legislative committees do not. So state legislative committees generally do not take matters under consideration unless they are contained in legislation before the committee.

### **Public Comment**

One member of the public addressed the commission on the subject of Parental Alienation, following up on remarks that he had made at the January public hearing.

## **Summary of the Family Law Commission Meeting Thursday, April 19, 2018**

### **Introduction of New Members and discussion of qualifications and terms:**

Chairman Bounds introduced several new members of the Commission, including Senator Stephanie Hansen of Middletown, Family Court Judge Peter B. Jones of Lewes, and Kelley Huff, Esq. of Wilmington. Also appointed, but not in attendance, is Aimee String, Esq. of Felton.

William Walls, Esq., who formerly served on the Commission in his capacity as a Family Court judge, has since retired and has been reappointed in his capacity as a practicing attorney. Ms. McCall expressed the view that perhaps there are too many attorneys on the commission. It was noted that both Ms. Huff and Ms. String are serving as citizen members, not in their capacities as attorneys. Ms. Huff noted that family law does not enter into her legal practice and that her primary interest in serving on the commission is as a parent of young children.

There was also a discussion of whether or not there is a need for someone to serve on the commission who represents a grandparents' rights organization.



**Discussion of Resources available to persons representing themselves in a *Pro Se* capacity in Family Court**

Ms. McCall noted the continuing need for resource materials to help persons learn the rules and procedures of Family Court. Senator Hansen noted that the Justice of the Peace Courts have documents available telling people how to carry out various procedures in those courts. Judge Jones said that there are instructional videos available on the Family Court website, providing explanations for how to do the different kinds of cases a *pro se* litigant might be involved with. He said that there are also resource centers in each courthouse, providing “How-To” packets of information. He said that litigating in Family Court is not a simple thing, but that there are documents available, such as one he hands out, entitled “Preparing for your Court hearing.”

Dr. Gonzales suggested that it would be a good idea to create internships in which students could be assigned to create additional video resource materials about court procedures.

Senator Hansen noted that there is a regular family law clinic at Widener Law School.

Mr. Bounds noted that there had been discussion at the March meeting of the Family Law Commission about the need to create resource materials covering the subject of private or “*de facto*” guardianships. He expressed the view that it would be useful to prepare some resource materials explaining to persons who are functioning in this kind of unofficial guardianship capacity how to petition the Family Court in dealing with such matters as dependency or neglect, legal guardianship and adoption.

Judge Jones said that a regular guardianship ordered by the Family Court has a 13-month limit, after which some more permanent disposition is required. He said that in cases where grandparents are seeking such actions, the Division of Family Services “pretty much holds the hand of grandparents and walks them through the process.”

It was noted that in cases of private guardianship, where a grandparent realizes that he or she must care for a grandchild, in some cases for several years, the time will come when the grandparent realizes that something official must be done. In some cases, the parents of the child are opposed to having the grandparent obtain legal guardianship status. If the parents are indigent, they can qualify for the services of an attorney, while the grandparent might not be able to afford one.

Judge Jones explained that permanent guardianship does not terminate the legal rights of parents, but it does stop parents from trying to take the child back. Parents are allowed to petition for visitation rights in such circumstances.

Senator Hansen noted that in many cases parents are uncommunicative and do not understand the ramifications of court procedures. She said that it would be good for the administration of justice if these procedures are better explained to people.

**Discussion of repealed Family Court statute:**

Mr. Bounds noted that in 2004, the General Assembly enacted legislation to repeal a requirement in the Family Court statute which required the court to do custody evaluations. He said that the court did not have sufficient resources to do the evaluations. Moreover, he said, from a due process standpoint, the court, in doing the evaluations, was providing evidence, rather than having litigants bring evidence to court.

Ms. Huff noted that it was similar to a pre-sentencing investigative process in criminal cases in Superior Court.

Mr. Bounds said that he brought up the subject to show that, historically, the Family Court has tried to be proactive, but that, because of a lack of funding, it was unable to continue the earlier procedure.

**Discussion of pending legislation:**

The commission discussed a number of bills presently pending in the General Assembly. These included:

**House Bill 20 and House Bill 141 (a replacement bill for HB 20)**

These involve the establishment of procedures for the Court to interview a child outside the presence of the parties for the purpose of obtaining the child's testimony and ascertaining the truth of a matter asserted to by a party in a Protection from Abuse proceeding. As written, the legislation would, if enacted, allow the Court to permit counsel to be present during the interview and ask the child questions. The Court may also permit a party who is not present for the interview to submit questions of fact for the Court to use in interviewing the child.

Mr. Bounds noted that House Bill 141 was drafted by the Family Law Section of the Delaware Bar Association at the request of the bill's sponsor, Rep. Sean Lynn. He said that under the former procedures, it was to litigants' advantage to try to use a child "as a pawn in the proceedings. This is supposed to fix that."

Ms. Huff asked why in the case of a *pro se* litigant, where the other side is represented by an attorney, the other side's attorney can attend but the *pro se* litigant cannot.

Representative Ramone said that either both sides should be present or neither side should be present in a case where one side has an attorney and the other side does not.

### **House Bill 140**

Ms. Torres provided the background for this legislation, noting that it is a federally-mandated bill. According to the bill's synopsis, its purpose is to codify sections of the federal law known as the Child Abuse Prevention and Treatment Act (CAPTA), as amended by the Comprehensive Addiction and Recovery Act (CARA) that requires states to have policies and procedures in place to address the needs of infants born with, and identified as being affected by substance abuse, withdrawal symptoms, or Fetal Alcohol Spectrum Disorder, including a requirement that healthcare providers involved in the delivery or care of such infant notify the child protection services system.

Judge Jones said that this legislation is designed to address the problem of so many children being born whose parents are using drugs. He discussed what is happening in such cases at the present time.

### **House Bill 39 and House Bill 40**

These are companion bills which deal with cases of youth who are about to "age out of" the custody of the Department of Services for Children, Youth and Their Families (DSCYF), but who have various mental or behavioral disorders that qualify them for adult mental or behavioral health services. HB 39 applies to cases where a youth has a mental condition requiring services but is not amenable to, or compliant with such services. HB 40 requires DSCYF to develop and implement a transition plan for mental or behavioral health services for the child.

Judge Jones expressed the view that these bills address a gap in the existing system. Mr. Bounds asked, "Do any kids who are clients of the Division of Family Services also have a plan from the Department of Labor to help them with jobs?"

Dr. Metzger said that in many cases, children in such circumstances are trafficked. She said that the Division of Family Services is required to give the youth independent living services from the ages of 16 to 21.

Ms. Torres said that there are cases where the Superior Court has jurisdiction for young people with mental problems and turns that jurisdiction over to Family Court.

### **House Bill 17**

This bill would raise the mandatory school attendance age from 16 to 17.

## **House Bill 55**

This bill would raise the mandatory school attendance age to 18.

### **Training Sessions for Recognizing Child Abuse:**

Ms. Kokjohn said that the Beau Biden Foundation for the Protection of Children offers “Stewards of Children” training sessions, educating adults about how to identify, prevent and responsibly react to child abuse. She suggested that the Commission arrange to attend one of these sessions. Mr. Bounds suggested devoting the Commission’s September evening meeting to one of these sessions.

### **Public Comment:**

A member of the public in attendance spoke of his experience of being the subject of parental alienation by his ex-spouse and asked if there is a way the Commission could look at those parts of the law that apply to co-parenting. He favors changing the law to make it more difficult for one parent to alienate a child from the other parent.

## **Summary of the Family Law Commission Meeting Thursday, May 17, 2018**

### **Presentation by Senator Bruce C. Ennis**

Senator Ennis made a presentation to the Commission on a recent trip he had taken to Hartford, Connecticut, together with Commission members Rep. Ramone, Ms. McCall and Mr. Morning to study family court procedures in that state. He noted that among other features of the Connecticut Family Court system, juveniles do not testify, litigants are not banned from taking a friend with them into court, there is enhanced accountability, and judicial decisions are handed down within 120 days. Judges serve eight-year terms and each year they are transferred to a new assignment, not necessarily within family court.

Rep. Ramone spoke of what he said was a different atmosphere in the Connecticut court. He said that the three main differences he observed were (1) the technology; (2) the ambience from top to bottom which, he said, was not a show for the benefit of the Delaware visitors; and (3) the degree of professionalism.

*(NOTE: A written report from Senator Ennis providing further details is available upon request)*

### **Annual Presentation on the Delaware Family Court**

Chief Judge Michael Newell, accompanied by the new Court Administrator, Saul Hernandez and Eleanor Torres, Counsel to the Chief Judge, appeared before the Commission for Judge Newell to provide an annual report on Family Court.

He noted that the court's adult criminal caseload increased from 3,687 cases in 2016 to 4,273 cases in 2017. He explained that the court assumed jurisdiction over domestic violence cases that caused the uptick in the caseload.

Judge Newell said that the court's juvenile delinquency caseload declined from 5,109 cases in 2016 to 4,345 cases in 2017. This decrease, he said, was caused by the court's expungement process.

He spoke of some new developments, such as the publication of cases on the court website, court orders sent out by email as of 1 June 2017, and establishing initial judicial assignments, effective 1 July 2017, which allows judges to make decisions early on in a case.

Judge Newell said that Delaware is one of four states nationally to have received a federal grant to fund a Family Court Enhancement Project. Among the court's new initiatives is "PFA Days," in which the court devotes additional time to Protection From Abuse cases. New Castle County now has two PFA days per week under a pilot program that began in May, 2017. Kent and Sussex implemented the program in October, 2017.

Other improvements include:

- Domestic Violence Training for court staff.
- Improved materials made available for self-represented litigants and staff.
- Policy and procedure revisions.
- Continued progress is being made under the Family Court Enhancement Project on:
- Improvements to resource centers in all three counties.
- PFA information packets and revised custody packets.
- Specific findings documented in PFA orders.

- Informing judges when a PFA is filed in that judge’s active custody case (the judge may elect to take oversight of the PFA away from the commissioner who is overseeing it).
- Practice guidelines are now nearing completion both for attorneys and for pro se litigants.
- The court is also addressing the perceived abuse of the PFA process by some litigants.
- Guardianship procedures are being improved.
- The court has established a jurisdictional improvement committee.
- The court is continuing to improve access to justice and is working to improve the Family Court call center.

Statewide, the court resource centers served 50,000 litigants in 2017—24, 000 in New Castle County, 15,000 in Kent County, and 11,000 in Sussex County.

Judge Newell also spoke on the status of efforts to get new Family Courthouses in Kent and Sussex Counties. He noted that the estimated cost for each courthouse is \$150 million to \$200 million and that they will take two to three years to build. The present Kent County Family Court building has 45,000 sq. ft. of space; 99,914 sq. ft. is needed. The present Sussex County Family Court building has 31,000 sq. ft. of space; 107,325 is needed.

*(NOTE: A copy of Judge Newell’s PowerPoint detailing the contents of his report is available upon request)*

## **Summary of the Family Law Commission Meeting**

### **Thursday, Sept. 20, 2018**

Mr. Bounds suggested that the commission devote part of an upcoming meeting to consideration of how the present Family Law Commission enabling statute might be adjusted and modernized, noting that the statute has not been overhauled “except for minor tweaks” since it was originally enacted.

*(Note: The Family Law Commission enabling statute is Section 2001 of Chapter 20, Title 13 of Delaware Code. The original legislation is found at 64 Del. Laws, c. 481, § 1, approved Sept. 29, 1984)*

Mr. Bounds said that there is a need to look at possible changes that may be helpful and suggested that this discussion take place at the commission's February meeting.

He also suggested taking time at an upcoming meeting to plan the 2019 meeting schedule with topics to be discussed during those meetings.

Mr. Bounds said that rather than bringing in experts on various subjects to talk to the Commission during 2019, he would like to use 2019 for the Commission to have discussions on amending its statute. He added that looking carefully into the existing statutory provisions and possible changes will increase commission members' knowledge of the statute. He said he also feels the commission should discuss the implementation of proven ideas from other states into our Family Court system.

Mr. James Morning said that he would like have the commission devote one meeting to a consideration of the need for prosecution of false allegations, noting that this topic has been a frequent point of discussion by members of the public. He spoke about allegations of perjury and the failure of the Dept. of Justice to prosecute anyone for it. Mr. Morning also expressed the view that legislation is needed to mandate DNA tests to establish fatherhood.

The commission also discussed holding all of its 2019 meetings during the legislative session, between January and July 1, instead of meeting in September and November as done in recent years.

It was noted that the commission's function as a sounding board seems to have passed.

**ADDENDUM:**  
**DELAWARE FAMILY LAW COMMISSION ENABLING STATUTE**  
**(First enacted on June 14, 1984):**

§ 2001 § 2002 § 2003 § 2004

**TITLE 13**  
**Domestic Relations**  
**CHAPTER 20. COMMISSION ON FAMILY LAW**

**§ 2001 Creation.**

The General Assembly hereby creates a permanent Commission on Family Law.

64 Del. Laws, c. 481, § 1.;

**§ 2002 Composition.**

The Commission shall consist of 16 citizens of the State and shall have at least 2 members from Sussex County and at least 2 members from Kent County. At least 2 of the members of the Commission shall be attorneys licensed to practice law in Delaware, at least 1 member shall be a judge of the Family Court of the State; 2 members shall be members of the House of Representatives, with 1 from each of the 2 major political parties represented in the House; 2 members shall be members of the Senate, with 1 from each of the 2 major political parties represented in the Senate; at least 1 member shall be a pediatrician licensed to practice in this State, at least 1 member shall be a board certified family-practice physician licensed to practice in this State, and at least 1 member shall be a psychologist licensed in this State specializing in the psychology of children when appointed.

64 Del. Laws, c. 481, § 1; 65 Del. Laws, c. 175, §§ 1, 2; 66 Del. Laws, c. 386, § 1; 72 Del. Laws, c. 153, § 1.;

**§ 2003 Appointment; terms of office.**

The members of the Commission shall be appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives who shall designate 1 member of the Commission to serve as Chairperson during his or her term of office.



(1) Initial members. — Nine members of the Commission shall be appointed to take office on September 1, 1984. Three of them (including the Chairperson) shall be appointed for a term of 3 years; 3 of them for a term of 2 years and 3 of them for a term of 1 year.

(2) Additional members. — Two additional members shall be appointed to take office September 1, 1985, in order to increase the membership of the Commission from the initial 9 members to 11 members. One of the additional members shall be appointed for a term of 2 years and the other shall be appointed for a term of 3 years.

(3) Subsequent members. — After the initial appointment of members and the additional members of the Commission, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall appoint sufficient new members of the Commission each year for a 3-year term so that the membership totals 16 citizens. They shall also jointly appoint members of the Commission to complete the remaining portion of the term of a member who has resigned or has been removed from the Commission.

(4) Term of office. — Initial members of the Commission shall serve for the term of office designated in their appointment. Subsequent members shall serve for a term of 3 years. Members of the Commission may be removed by a majority vote in the House and Senate with or without cause.

(5) Officers. — The Chairperson of the Commission shall appoint a Vice-Chairperson and Secretary of the Commission and such other officers of the Commission as the Chairperson deems necessary or desirable to assist the Commission in performing its duties, all to serve at the pleasure of the Chairperson.

(6) Compensation. — No member shall receive any compensation for his or her service on the Commission, but members may be reimbursed from time to time for their expenses in connection with the Commission's activities.

64 Del. Laws, c. 481, § 1; 65 Del. Laws, c. 175, §§ 3, 4; 66 Del. Laws, c. 386, § 2; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 153, § 2.;

#### **§ 2004 Purpose; powers; duties.**

The Commission shall study and evaluate the domestic relations laws of the State and the rules and procedures of the Family Court, review legislation affecting domestic relations law introduced in the General Assembly and Family Court rules and procedures, disseminate information about family law to the citizens of Delaware and engage in such other activities as it may deem appropriate in connection with the study, analysis, review and dissemination of information concerning family law. In furtherance and not in limitation of the foregoing, the Commission may:

(1) Conduct public hearings;

- (2) Invite written comments on family law from members of the public;
- (3) Review and comment upon legislation affecting family law introduced in the General Assembly at the request of any member of the General Assembly or on its own initiative; and
- (4) Publish and disseminate information concerning family law to the public.

The Commission shall meet at least 4 times each year and shall report to the General Assembly its activities and recommendations at least once every year on or before March 15. The Commission shall not engage in the practice of law, shall not give legal advice of any kind to individuals about their rights or responsibilities (other than publishing and disseminating comments about existing or proposed legislation or Family Court rules and procedures) and shall not intervene, directly or indirectly, in any case pending in any court.

64 Del. Laws, c. 481, § 1.;