

Minutes
Family Commission
April 11, 2012

The Family Commission met in courtroom 5B at the Middlesex Judicial District Courthouse located at 1 Court Street, Middletown, CT on April 11, 2012.

Those in attendance: Hon. Lynda Munro (Chair), Hon. Holly Abery-Wetstone (arrived late), Hon. Sandra Sosnoff Baird, Attorney Michael Blanchard (arrived late), Hon. John Boland, Attorney Gaetano Ferro, Hon. Elaine Gordon, Johanna Greenfield, David Iaccarino, Attorney Thomas Parrino, Hon. Elliott Solomon (arrived late).

Also in attendance was Attorney Joseph Del Ciampo and Attorney Nancy Porter from the Judicial Branch's Legal Services Unit.

The meeting was called to order at 2:20 PM by Judge Munro. There was not yet a quorum. At that time three documents were handed out, the current Affidavit Concerning Children, the Addendum to the Affidavit Concerning Children, and an Affidavit Concerning Children marked up with some handwritten suggestions for change. The only thing discussed prior to a quorum being reached was that the Affidavit Concerning Children is used in Probate Court in addition to Superior Court. No voting or consensus-taking was conducted during that period. A quorum was present at 2:25 PM.

I. Review and approval of minutes

The minutes of the meeting held on December 7, 2011 were approved by the members of the Commission who were in attendance.

II. Affidavit Concerning Children JD-FM-164

Judge Munro has not received any suggestions from other judges for rule revision to accommodate e-filing for family matters. There may not be any necessary, but the Commission members were asked to consider it and let her know as soon as possible whether there are any recommended changes.

III. Self-represented parties filing appearances "in lieu of" attorneys

A "straw" vote to start dialogue was taken of the following: If a case has a trial date within 90 days the in lieu of appearance would not automatically replace a self-represented party's appearance without a hearing. There was a consensus as to the concept, but the number of days was discussed with no outcome decided. The appearance form would need a place on it to indicate if a trial date is set and if so, what the date is, or that no trial date is set.

The Commission members continue to agree that there should be a rule proposed that a lawyer cannot obtain a pre-signed in lieu of appearance up front.

Judge Munro indicated that there may also be a proposal with regard to the timing of the release of attorneys from representation of obligors in contempt proceedings. However, Judge Munro is concerned about the fact that the attorney does not also represent the obligor on an accompanying modification when the law requires that such modifications be heard contemporaneously with the contempt motion.

IV. Revisions to Financial Affidavit form

The workgroup is now looking at creating a Family Support Magistrate E-Z form. They expanded out the current form into a narrative and distributed it to the Commission members who were asked to review it and come back with recommendations for the next meeting. The workgroup can then work with those suggestions, finish the draft, and then there could be a focus group conducted thereafter. Also distributed to the members was income information from the 2010 census.

The workgroup has not yet reached the liabilities section and they would like to work on the instructions as well as a summary. A first draft from the family support magistrates was also requested for the next meeting.

V. Ex Parte motions for custody

Connecticut General Statutes § 46b-56 was distributed. The question was raised as to what “sitting” means in § 46b-56. After much discussion and a suggestion of looking at the legislative history, it was noted that the injunction statutes, which have bearing on this issue, have notes from 1967 when the word “sitting” was substituted for “in vacation” and for “in session whether in term time or vacation” and that these sections likely pre-dated §46b-56.

Another question was raised as to whether the way § 46b-56 is written poses due process issues in the context of an ex parte application. The members of the Commission are in consensus that a judge should have the authority to issue an ex parte order in the appropriate circumstances (for example, where irreparable harm would result). If there is authority, it would be very helpful if the Practice Book could prescribe the form to contain the elements that would be necessary for relief to be granted.

VI. Such other matters that may come before the Commission

There is currently a challenge at the Supreme Court to attorneys not being permitted to be present during family relations evaluations. Other states seem to have a similar process for their evaluations. There may be a rule proposal that goes to public hearing on this issue.

Judge Munro informed the Commission members that the Hon. Maureen M. Murphy will no longer be serving on the Commission. The members acknowledged this as a huge loss to the Commission as she has been an essential contributor with a vast institutional knowledge. Specifically noted was her recent work on the financial affidavit and her GAL expertise. She will be greatly missed and the Commission thanks her for her service.

VII. Next meeting

The next meeting date is May 23, 2012.

Judge Munro adjourned the meeting at 3:58 PM.