

Minutes
Family Commission
September 14, 2011

The Family Commission met in courtroom 5A at the Middlesex Judicial District Courthouse located at 1 Court Street, Middletown, CT on September 14, 2011.

Those in attendance: Hon. Lynda Munro (Chair), Hon. Holly Abery-Wetstone, Attorney Michael Blanchard, Hon. John Boland, Attorney Steven Dembo, Hon. Anne Dranginis, Attorney Constance Frontis, Hon. Elaine Gordon (arrived late), Johanna Greenfield, David Iaccarino, Attorney Maureen Murphy, Attorney Thomas Parrino, Hon. Elliott Solomon.

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 2:10 PM by Judge Munro.

I. Review and approval of minutes

The minutes of the meeting held on August 3, 2011 were approved by the members of the Commission who were in attendance.

II. *Ex parte* motions for custody

Ex parte motions for custody are reported to be handled differently from district to district as to whether a "form" is available, and as to whether they are considered. The question presented to the Commission is whether any forms or authorization is needed.

Judge Boland was the point on this topic and had some proposed statutory language that was distributed to Commission members.

The question was raised as to whether the application should include an area to indicate whether juvenile or probate is involved. Perhaps there should be a question as to whether any order has issued involving the children. The question was also raised as to whether there needs to be an underlying motion.

In identifying the purpose of the legislation, the concern is that the process is being abused and there is no statutory guidance to narrow it.

There were some proposed tweaks to Judge Boland's draft and more discussion. It was raised that the language regarding a hearing upon receipt of the application has caused issues for C.G.S. § 46b-15. There is a difference of opinion as to whether that is really a "shall" or a "may" provision. It was suggested that perhaps the language should be different in the *ex parte* custody

proposal, such that there shall be a hearing if *ex parte* relief is ordered and there may be a hearing if *ex parte* relief is not granted. C.G.S. § 46b-115n of the UCCJEA regarding temporary emergency jurisdiction was raised as a drafting source, but it was determined that it is inconsistent with the draft and is too strict a standard for the possible situations that might arise in the *ex parte* custody context.

The C.G.S. § 46b-120 “abuse” language was also considered, but it was suggested that this might also be an inappropriate standard.

5 days for service may not be enough time. Conversely, the parties may need to come in sooner. And what notice should be provided to the opposing party if there is a case already pending? The Practice Book requirements of section 4-5 were also raised.

The fundamental question is whether legislation is necessary or guidance needed. If so, what is the criteria/indicia to trigger action? What are we trying to accomplish?

Judge Munro’s concern is that nothing in the law provides members of the public with guidance as to when relief, without notice, can be ordered. And in these situations, it interferes with a fundamental right. She would like to take a look at what other states and common law countries have done and will give the issue to Rebecca Morton to research.

III. Revisions to Financial Affidavit form

A draft regarding the income portion of the form was distributed and discussed by David Iaccarino and Attorney Parrino. Two objectives were identified to guide the drafting process:

1. Make the form more robust to capture information, and
2. Allow for explanatory comments

The concept of an income threshold for an EZ form seemed artificial to some and it was suggested that perhaps it should be data-driven and not income-driven. It was further suggested that the draft form is more than that which would be needed in Family Support Magistrate court, and that the Commission should take a re-look at the administrative divorce financial affidavits.

Two forms make sense, but there should not be more than two forms. It was suggested that our current form could be the EZ form. Or perhaps an affidavit like that on the fee waiver application. The income section must be adequate and there must be better

instruction. It was suggested that the 13-week standard continue to be used, that there be a separate instruction sheet, that the amounts remain weekly, and that there be a line added as to what income was for the previous year. Feedback on the form should be sent to Johanna Greenfield.

IV. Self-represented parties filing appearances “in lieu of” attorneys

This agenda item was not reached.

V. Judicial Review complaints and disqualification

This agenda item was not reached.

VI. GAL – duration of appointment

This agenda item was not reached.

VII. Such other matters that may come before the Commission

No other items were raised before the Commission at this meeting.

VIII. Next meeting

The next meeting date is October 26, 2011.

Judge Munro adjourned the meeting at 4:14 p.m.