

Minutes
Family Commission
October 3, 2012

The Family Commission met in courtroom 5A at the Middlesex Judicial District Courthouse located at 1 Court Street, Middletown, CT on October 3, 2012.

Those in attendance: Hon. Lynda Munro (Chair), Hon. Holly Aberly-Wetstone, Hon. Sandra Sosnoff Baird, Attorney Michael Blanchard (arrived late), Hon. John Boland, Attorney Steven Dembo (arrived late), Attorney Gaetano Ferro, Attorney Constance Frontis, Hon. Elaine Gordon (arrived late), Johanna Greenfield, David Iaccarino, Hon. Maureen M. Murphy, Attorney Thomas Parrino, Hon. Barry Pinkus, Hon. Elliott Solomon.

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

The meeting was called to order at 2:00 PM by Judge Munro.

I. Review and approval of minutes

The minutes of the meeting held on May 23, 2012 were approved by the members of the Commission who were in attendance.

II. Automatic orders in custody/visitation cases

A question arose as to whether the automatic orders are adequate to protect children and whether they are binding as to third parties. In other words, is a third party a "party" within the meaning of the automatic orders?

It was suggested that perhaps a third party action was not considered at the time and a suggestion was made that there be no automatic orders where a third party brings a custody or visitation action. Another suggestion was that nonparents would need to apply to the court for relief. Another suggestion was that a third party practice book rule be specifically created with its own distinct provisions. It was noted that a third party could always bring a motion if he or she felt a need to be heard.

It was suggested that the plain reading of the current rule would indicate that its provisions do apply in a third party action. Some language was suggested to exclude third parties from the rule. One issue that was raised was how to handle a situation where it is an action between a parent and a guardian appointed by the probate court. If there is going to be an amendment to the rule proposed, Judge Munro would like to try to include it in this year's session.

Attorney Dembo will provide a brief he has written on this topic to Attorney Porter.

III. Fee waiver form – dependents or size of family unit (Federal Poverty Level Chart)

Judge Munro explained that an issue has come up that the fee waiver form does not contain the same language as the Federal Poverty Level Chart. The fee waiver form has space for the “total number of dependents,” not including the applicant, and the Poverty Level Chart uses “persons in family/household,” though “persons in family/household” is not defined. The general consensus was that dependents was a useful figure. One suggestion to add the household number above the dependents number.

A motion was made to ask the legislature to clarify with an amendment to also provide the legislature with the background and how it came up. The motion as amended unanimously approved by vote of the Commission members. It was noted that this would also impact other subject matter areas besides family. In the mean time it was suggested that the form should reflect the law and that a box should be added that says “persons in family/household.” There could be an asterisk that says that if the numbers don’t match to please explain. A draft will be created.

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

A motion was made to provide for a court hearing if an in lieu of appearance was filed by a self-represented party within 60 days of a trial or a specially scheduled hearing, not including short calendar. It was noted that an attorney could always file a motion to withdraw if the circumstances warranted. There was further discussion, including whether the time frame should be 90 days. A new motion was made to table the matter so that the members could have time to think about it which was unanimously approved. There is no need for a count of cases in which this has occurred as there is no disagreement among members that this is a matter that should be addressed. It was noted to keep an eye on preventing any unintended impact on other subject matter areas (such as civil). Judge Munro would like this matter taken to completion at the next meeting.

V. Revisions to Financial Affidavit form

The results of the survey of the family support magistrates were reviewed. There was a recommendation to survey others as well. There may be a need for more income information and some reformatting for magistrate court. It was noted that it could use the benefit of someone who knows form design. More information will be solicited from other preparers. Judge Munro intends to join the

workgroup. It was noted that this form is sometimes used in civil cases and that an eye must be kept on any potential impact on civil.

VI. Ex Parte motions for custody

The analysis of the May 2012 memo from the Judicial Branch's Legal Services Unit was read aloud. This memo will be re-sent to the Commission members. It was noted that there is some ambiguity as to when a case is already in court and the legislative history only clarifies as to before a case has started. It was further noted that the law on custody is statutory and not derived from equitable common law. Judge Boland's draft(s) will be recirculated to the Commission members and this item will be placed at the top of the next agenda.

VII. Such other matters that may come before the Commission

The topics that were intended to be reached here will appear on the next agenda.

VIII. Next meeting

The next meeting date is scheduled for November 14, 2012.

Judge Munro adjourned the meeting at 4:17 PM.