

Minutes  
Family Commission  
January 21, 2015

The Family Commission met in Courtroom B1 at the Hartford Judicial District Courthouse located at 90 Washington Street, Hartford, CT on January 21, 2015.

Those in attendance: Hon. Elizabeth Bozzuto, Chair, Hon. Sandra Sosnoff Baird, Attorney Michael Blanchard, Hon. John Boland, Attorney Steven Dembo, Hon. Anne Dranginis, Attorney Michael Fasano, Attorney Constance Frontis, Attorney Johanna Greenfield, Attorney Deborah Grover, Hon. Maureen Murphy, Attorney Thomas Parrino, Hon. Barry Pinkus, Hon. Elliott Solomon, Deputy Chief Court Administrator

Also in attendance were Attorney Joseph Del Ciampo and Attorney Nancy Porter from the Judicial Branch's Legal Services Unit, Debra Kulak from the Judicial Branch's Court Support Services Division, and Attorney Damon Goldstein from the Judicial Branch's Court Operations Unit.

The meeting was called to order at 2:35 PM by Judge Bozzuto.

I. Review and approval of minutes

The minutes of the meeting held on March 12, 2014 were approved, as amended to correct a typographical error, by the members of the Commission who were in attendance.

The minutes of the meeting held on September 10, 2014 were approved by the members of the Commission who were in attendance.

II. Financial Affidavit

Steven Dembo indicated that it might be helpful to have someone with computer knowledge present for the discussion. The issue was raised that the two software applications used by the bar to complete the financial affidavit electronically handle the new form differently. The Forms Manager may need to be involved in any discussion. Further discussion of the financial affidavit is deferred until the next meeting.

III. Administrative Divorce

Judge Bozzuto informed the members of the Commission that legislation has been drafted. The recommendations of the Commission that had been previously approved are included in the draft legislation. Either party will be able to revoke their participation in the administrative divorce process at any

time prior to judgment. When that happens, the case will be treated the same as all other divorces.

The issue was raised as to whether implementation of the legislation was seen as a multi-year project. The goal is to see legislation passed this year.

Another issue raised was whether service by marshal was going to be required and what effect there would be on the process if the parties had any restraining orders against one another. Judge Bozzuto indicated that service by marshal was not an issue because an administrative divorce would be commenced by a joint petition. Also, if either party had a restraining order against the other party, the parties would not be able to seek an administrative divorce. Parties will be required on their joint petition to indicate that there have been no issues of domestic violence between them.

#### IV. Collaborative/Mediated Divorce

Judge Bozzuto asked the members of the Commission to consider ways to facilitate cases proceeding collaboratively or through mediation. These cases place no burden on the court and its resources as resolution is attempted without the need for court action.

Collaborative and mediated divorce cases are treated differently from judge to judge and district to district. Some judges require that a mediator be present at the time of dissolution while other judges do not. Some districts will not accept a waiver of service by the defendant of the divorce complaint without an appearance while other districts will. Coming up with a set of uniform practices is likely the best way to handle the inconsistencies.

One request from attorneys who practice collaborative divorce is that collaborative cases be exempted from the requirement to appear in court on the case management date. There are two major concerns with this request. The first concern is that the court needs to be able to manage the cases on its docket. If a collaborative or mediated divorce case falls apart after months of going through the process, the parties appear for the first time before the court essentially at the beginning of the dissolution process except that their case is now many months old. The second concern is that carving out an exception for one class of divorce cases could be perceived as the court favoring the collaborative process over another process.

The point was made that greater uniformity and consistency of practices in case management, handling waivers of service, and the expectations of the role of the mediator would allow those who practice in this area of family law to better know what to expect from the court.

V. Case Management

This agenda item was not discussed.

VI. Transmittal from the Rules Committee: Items 01-06M, 01-06J, and 01-07

Item 01-06M proposed a new Practice Book Rule 25-70 which seeks to require an evidentiary hearing before supervised visitation could be ordered. The members of the Commission agreed that this is a legislative issue.

Item 01-06J concerns Practice Book Section 25-60A. The request is that any private evaluation not be given to the parties or any attorneys in a case without a court order regarding the report's dissemination. The members of the Commission discussed whether or not the ADA preempts Practice Book Rule 25-60A. The members of the Commission agreed that once an evaluation is marked as an exhibit at trial that the Confrontation Clause and Due Process Clause of the Constitution would require that the evaluation be made available. Concerns were raised about how a case can be resolved without knowing the contents of an evaluation. Another consideration discussed by the members of the Commission involved trying to protect children from the contents of the evaluation. Evaluation contents have been known to turn up on the internet and on social media where children and even the public can see it. The Commission will ask the Legal Services Unit to research the issue of whether the ADA preempts Practice Book Section 25-60A. Judge Dranginis, Steven Dembo, and Thomas Parrino will work on draft language for the members of the Commission to consider at the next meeting.

Item 01-07 concerns the proposal of a new practice book rule to redact transcripts and memorandums of decision that contain information about the medical conditions and medical treatment of children. This item is also referred to Judge Dranginis, Steven Dembo, and Thomas Parrino and will be discussed at the next meeting.

VII. Practice Book Rule 6-4

Judge Bozzuto asked the members of the Commission their feelings about eliminating the portion of Practice Book Rule 6-4 that requires attorneys to sign a judgment file when both parties are represented by counsel in a dissolution of marriage or civil union. Now that dissolution cases are paperless, eliminating this requirement would facilitate the electronic processing of judgment files.

The consensus of the attorneys who are members of the Commission is that they like the ability to review judgment files after they are produced by the clerk and those members would not like to see the rule changed.

VIII. Practice Book Rule 25-24

Judge Bozzuto informed the members of the Commission that a proposal has been submitted to the Rules Committee to add language stating that any appropriate party may move for the appointment or removal of a guardian ad litem for the minor child or removal of counsel for the minor child.

Judge Bozzuto adjourned the meeting at 4:10 PM.

DRAFT