

FAMILY LAW ADVISORY COMMISSION

APPEARANCE BEFORE THE JOINT STANDING COMMITTEE ON JUDICIARY

January 26, 2021

Senator Carney, Representative Harnett, and Members of the Joint Standing Committee on Judiciary, my name is Mary Kelly. I am a District Court Judge in Cumberland County and the Chair of the Family Law Advisory Commission. Thank you for inviting members of the Commission to appear before you today.

Some of you are familiar with the Family Law Advisory Commission (also known as "FLAC"). Others may not be. It is our pleasure to appear before you to provide a brief introduction to FLAC, its members, and its work.

1. Enabling Statute

FLAC was established over 20 years ago for the general purpose of "conducting a continuing study of the family laws of Maine." Our enabling statute is set forth in Title 19-A §§ 351-365. Essentially, the statute directs FLAC to examine and evaluate Maine's family law statutes and to draft and propose such amendments to those provisions as the Commission deems advisable.

The enabling statute authorizes FLAC to recommend changes to Maine's family law and procedures to the Legislature, to the Supreme Judicial Court, and to any other organization or committee concerned with family law in Maine.

2. Members

FLAC's 11 members are appointed by the Chief Justice of the Maine Supreme Judicial Court. By statute, all members "must have experience in practicing family law or be knowledgeable about family law." The statute further requires specific qualifications of particular appointees. FLAC's membership must include the following:

An active Superior Court Justice: Justice Wayne Douglas

An active District Court Judge: Judge Mary Kelly

An active Family Law Magistrate: Magistrate Steven Chandler

A current Probate Court Judge: Judge Elizabeth Mitchell

Two members of the Maine State Bar Association's Family Law Section: Attorney Edward S. David and Attorney Catherine Miller;

A representative of a legal services organization: Attorney Melissa Martin of Pine Tree Legal Assistance;

A representative of the Court Alternative Dispute Resolution Service ["CADRES"]: Attorney Diane E. Kenty, CADRES Director;

A representative of the Department of Health and Human Services: Attorney Kevin C. Wells, the Department's General Counsel;

and

Two members of the public, at least one whom who has experience providing mental health services: Dr. Franklin Brooks, a licensed clinical social worker and Assistant Clinical Professor at the University of New England, and Attorney Timothy Robbins, Executive Director of Kids First Center.

3. FLAC's Work

FLAC meets monthly. Prior to the onset of COVID-19, FLAC conducted its meetings at the Capital Judicial Center in Augusta. Since April 2020, we have been meeting remotely over Zoom. Although FLAC has no staff and no budget, we are fortunate to have a remarkable group of experienced and committed members who generously volunteer their expertise and time. We also are very fortunate to have additional family law experts who regularly consult with us on topics of interest. Assistant Attorney General Deborah Willis, the Chief of the Child Support Division, frequently consults with us on child support matters. Professor Deirdre Smith from the University of Maine School of Law has been an invaluable resource in relation to FLAC's work on the Maine Uniform Probate Code and many other issues.

Consistent with our statutory charge, FLAC reviews Maine's family laws, typically in the context of proposed legislation, and responds to other requests from this Committee. During each legislative session, FLAC reviews pending bills that pertain to family law and regularly submits reports to this Committee. The reports are submitted to you through

staff prior to public hearing, and typically summarize our views on the bill and offer a recommendation.

Examples of Other Work

FLAC has proposed legislation, either on its own initiative or at the request of this Committee. For example, in 2016 FLAC was directed to oversee a comprehensive review of the laws and procedures governing minor guardianship and adoption, leading to the enactment of the Maine Uniform Probate Code in 2018. FLAC has drafted proposed legislation for your consideration addressing the circumstances in which a parent may request that a court change a child's name as well as proposed legislation addressing the circumstances in which one parent can request termination of the other parent's parental rights.

FLAC is currently considering the constitutionality and feasibility of legislation which would allow courts to preserve some aspects of the child-parent relationship when terminating parental rights, and which would preserve aspects of the minor-guardian relationship where there is a substantial bond between the child and the guardian when terminating a minor guardianship. FLAC is also considering whether to recommend legislation which would provide greater guidance to courts in deciding how to award spousal support to award in divorce cases.

On behalf of all members of the Family Law Advisory Commission, let me say that we look forward to another productive session and to working collaboratively with this Committee and its staff. We hope we can be of assistance to you.

Thank you for the opportunity to appear before you today.