

## **Workgroup to Study Child Custody Proceedings Involving Domestic Violence or Child Abuse Allegations**

Meeting Summary – August 27, 2019

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The Workgroup to Study Child Custody Proceedings Involving Domestic Violence or Child Abuse Allegations held its sixth meeting of the 2019 interim on Tuesday, August 27, 2019, in Room 101 of the House Judiciary Committee Room in Annapolis, Maryland. The following members were present:

Secretary of State John C. Wobensmith, Chair  
Senator Mary Beth Carozza  
Senator Susan Lee  
Delegate Jazz Lewis  
Mr. Paul Griffin  
Ms. Sonia Hinds  
Ms. Anne Hoyer  
Ms. Joyce Lombardi  
Ms. Claudia Remington  
Ms. Laure Ruth  
Ms. Jennifer Shaw  
The protective parent member was also present.

### **Welcome and Introductions**

The chairman of the workgroup, Secretary of State John C. Wobensmith, welcomed everyone and made numerous announcements, including advising that the workgroup will be forming subgroups in order to facilitate its work. He introduced Professor Barbara Babb of the University of Baltimore School of Law, who was invited to present to the committee on the evolution and structure of the family court system in Maryland. Professor Babb has been instrumental in family court reform both across the country and internationally.

### **Presentation from Professor Babb**

Professor Babb noted that family law represents 46% of Maryland's trial court cases; this percentage has remained fairly consistent throughout the years. Prior to the creation of Maryland's family divisions (the State's version of a unified family court), litigants in family law cases were often subject to duplicative procedures in front of numerous judges/magistrates and competing orders within the same case. She explained the background of the creation of a unified family court system in Maryland, which included an Attorney General's advisory council, a Governor's task force, and 10 years of legislative advocacy. The entities charged with studying the issue identified numerous problems with the prior way of handling family law cases, including the lack of attention given to child-related issues and the lack of interest, temperament, and understanding of some

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judges in hearing family law cases. Maryland's family divisions were eventually created by Maryland Rule in 1998 (See Maryland Rule 16-307).

Pursuant to the rule, Maryland's family divisions exist in each of the five jurisdictions (Anne Arundel, Baltimore, Baltimore City, Montgomery, and Prince George's counties) where there are at least seven resident judges of the circuit court; Howard County also essentially operates a family division. One of the most important features of a family division is its comprehensive subject matter jurisdiction over all family cases. This provides the means to have a holistic look at families and children and hear the full range of family law matters (*e.g.*, divorce, protective orders, child abuse, *etc.*). The rule also identifies essential family support services in recognition of the fact that non-legal issues (*e.g.*, poverty, mental health, substance use, *etc.*) are often as important as the legal issues. These essential family support services include mediation, custody investigations, assistance for self-represented litigants, parenting seminars, and behavioral health evaluations. Case management plans and the allocation of appropriate judicial resources are also required. Furthermore, every circuit court (regardless of whether it has a family division) must have a family services support coordinator. Among other responsibilities, this position is tasked with identifying relevant services within the community and making the court aware of them.

Professor Babb also reviewed the system values and intended outcomes of the family divisions, which include (1) preserving the rule of law; (2) stabilizing families in transition; (3) providing safety and protection; (4) preserving family relationships where possible; (5) increasing access to the family justice system; and (6) developing a familiarity with each family. Professor Babb gave examples of specific services within a family division by speaking in greater detail about what is available in Baltimore City. Mr. Richard Abbott, the Director of the Department of Juvenile and Family Services within the Administrative Office of the Courts also gave brief remarks.

In order to assess the performance of trial courts, the Bureau of Justice provides specific measures that can be used: (1) access to justice; (2) expedition and timelines; (3) equality, fairness, and integrity; (4) accountability and independence; and (5) public trust and confidence. At the direction of the General Assembly, a workgroup used this framework to develop specific performance standards and measures for the State's family divisions. Professor Babb encouraged workgroup members to look at the developed standards.

Professor Babb also noted that the final report of the Commission on Child Custody Decision-Making and the recommendations contained within may be useful to the workgroup. She advised that many of the recommendations of the commission may align with the workgroup's charge.

## Questions and Discussion

Senator Susan Lee spoke briefly about the unsuccessful efforts in passing legislation to implement the recommendations of the Commission on Child Custody Decision-Making and the importance of continuing to build on and advocate for many of those recommendations. Ms. Laure Ruth mentioned that one of the issues being discussed by the workgroup was the option of a specialized court for cases in which domestic violence or child abuse has been alleged and asked for Professor Babb's thoughts. Professor Babb noted that her vision is a unified family court rather than a specialized court. In her opinion, a specialized court does not provide a holistic look at a family. In response to questions from Senator Mary Beth Carozza regarding organizational changes, Professor Babb supported looking into the expansion of family divisions to other jurisdictions. She also noted the difficulty of changing the structure of the court system without involving the Judiciary. Delegate Kathleen Dumais expressed her agreement with the importance of expanding family divisions and the difficulties of having a true unified, specialized family court due to the structure of Maryland's Judiciary system, in which circuit courts are partially funded and administrated at the local level. Delegate Dumais spoke of the importance of the family law training that judges receive and expressed conflicting feelings about having judges who only hear family law matters. On the one hand, these judges naturally develop expertise in family law, however, the problem of "issue fatigue" (*i.e.*, missing nuances due to a cynical feeling of "I've heard this before") is also present. In her opinion, the Judiciary is taking family law cases very seriously and constantly trying to better train judges.

In response to a question, Professor Babb expressed her opinion that legislation to specify in statute what factors a court must consider to determine the "best interest of a child" in a custody case would be beneficial; this was a recommendation of the Commission on Child Custody Decision-Making. Delegate Dumais shared other recommendations of the commission, some of which would be implemented by the Judiciary (*e.g.*, enhanced training) and others by the General Assembly (*e.g.*, a civil Gideon rule to provide attorneys for low-income litigants). Mr. Paul Griffin asked Professor Babb whether she thought the rule has had any impact on the identified problem of judges lacking the temperament and interest in family law cases. Professor Babb expressed her belief that the judicial nominating and appointments process must ensure that even if nominees do not have prior experience in family law issues, they must have at least the willingness to learn. The necessity of appropriate temperament was also discussed. Professor Babb and Mr. Griffin spoke briefly about problem-solving courts and the possibility of utilizing specialized dockets with dedicated judges to hear child custody cases involving allegations of child abuse and/or domestic violence. In response to a question from Ms. Joyce Lombardi, Professor Babb noted her support for training as many of the stakeholders as possible and looking into whether relevant Maryland Rules related to required trainings could be improved.

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### **Closing Remarks and Adjournment**

Chair Wobensmith made brief closing remarks and the meeting was adjourned.

**Note:** This summary has been prepared at the request of the chairman; however, please note that [the archived livestream video](#) of the workgroup meeting is also available and constitutes the official minutes of the meeting.