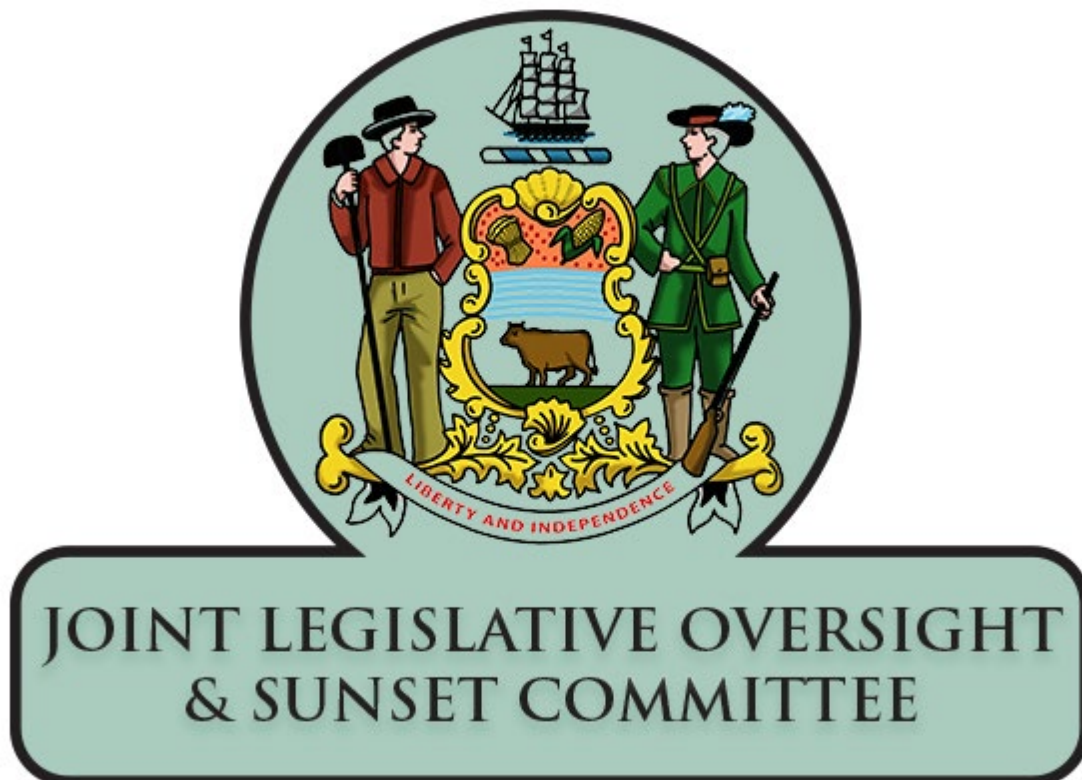


Staff Findings and Recommendations Report

Family Law Commission

151st General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
March 2022*

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The Joint Legislative Oversight & Sunset Committee (“JLOSC” or “Committee”) is a bipartisan 10-member legislative body which performs periodic legislative review of boards or commissions. The purpose of the oversight and sunset review is to decide genuine public need and if the entity is effectively performing. The Division of Research is a nonpartisan and confidential reference bureau for the General Assembly and supplies many services including staff support for JLOSC.

Special thanks: We appreciate the aid provided by Family Law Commission members and staff in conducting this review.

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ABOUT THIS REPORT

This is a staff findings and recommendations report (“staff report”) drafted by Division of Research staff regarding the sunset and oversight review (“review”) of the Family Law Commission. This report has staff recommendations for JLOSC review and discussion. Recommendations are not final until discussed and adopted by JLOSC with an affirmative vote by 7 members.

The review’s purpose is to find the public need for the entity and whether the entity is effectively performing to meet the need. The goal of the review is to supply strength and support to entities that are supplying a State recognized need.

JLOSC performs its duties with support provided by the Division of Research’s dedicated and nonpartisan staff in the form of two JLOSC research analysts, a legislative attorney, legislative fellow, and administrative assistant. JLOSC staff completes a performance evaluation of the entity under review and gives a staff report to JLOSC which includes research, analysis, key findings, and recommendations. During the review process, the following is not assumed:

- There is a genuine public need for the entity under review.
- That the entity is satisfactorily and effectively meeting public need.

Rather, the entity under review has the burden of showing, through the statutory criteria for review included in its self-report and analyst requested supplemental documentation, that there is a genuine public need, and that the entity is meeting that need.

JLOSC selected the Family Law Commission for review on March 25, 2021. During the review process the Chair of the Family Law Commission supplied information by completing a self-report which had a performance review questionnaire.¹

Division of Research staff compiled the following findings and recommendations after completion of a performance evaluation which included thorough research and analysis outlined in the Objectives, Scope, and Methodology section of this report. Division of Research staff used national auditing and evaluation standards while conducting the performance evaluation. Those standards require that we plan and perform the evaluation to obtain sufficient evidence to supply a reasonable basis for our findings and conclusions based on our evaluation objectives. We believe that the evidence obtained supplies a reasonable basis for our findings and conclusions based on our evaluation objectives. The Objectives, Scope, and Methodology section discusses the fieldwork procedures used while developing the findings and recommendations presented in this report.

The recommendations contained in this report are not final until adopted by JLOSC by affirmative vote of 7 members. Under §10213(a), Title 29, the Committee must first decide whether there is a genuine public need for an entity under review. To meet this requirement, the Committee may select to continue or terminate the entity under review. JLOSC meets publicly to review and

¹ Self-reports available on the Committee’s website, <https://legis.delaware.gov/Committee/Sunset>

discuss its staff's findings and recommendations, and the Committee is free to change, reject, or create brand new recommendations.

The JLOSC statute authorizes the Committee to recommend 1 or more of the following:

- Continuation of the entity as is.
- Termination of the entity.
- Termination of any program within the entity.
- Consolidation, merger, or transfer of the entity or the entity's functions to another entity.
- Termination of the entity unless certain conditions are met or modifications are made, by legislation or otherwise within a specified period.
- Budget appropriation limits for the entity.
- Legislation which the Committee considers necessary to carry out its decision to continue or terminate the entity.

The information contained in this report, along with the previously published self-report², which includes background information from the entity under review, help the Committee in conducting a review of the entity and meeting its statutory requirements under Chapter 102, Title 29. The "Staff Findings" section of this report has information to support the following staff recommendations.

Next Steps

After the release of this report, JLOSC will hold a public hearing in early 2022 for each entity under review to present to the Committee and accept public comment on the scope of the review.³

The Committee will review all information received, including the findings and recommendations presented in this staff report. Recommendations become completed after review, discussion, and an affirmative vote of 7 JLOSC members. Committee members are not bound by recommendations presented by staff and are free to change, reject, or form new recommendations. Once JLOSC adopts recommendations, the review moves to the implementation phase which may include drafting legislation.

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² Self-report available on the Committee's website, <https://legis.delaware.gov/Committee/Sunset>

³ Public meeting notices found on the Committee's website and the State of Delaware's Public Meeting Calendar.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

A performance evaluation conducted as required under JLOSC statute and based on the following criteria⁴:

1. If the agency is a licensing agency, the extent to which the agency has permitted qualified applicants to be licensed.⁵
2. The extent to which the agency has served the public interests.
3. The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or whether those changes primarily benefit the agency or other entities and are of only indirect benefit to the public.
4. Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during previous legislative sessions.

Scope

JLOSC reviews typically cover a 5-year performance period. Due to the unavailability of public documents, such as meeting minutes for most meetings held in the 5-year review period, the scope expanded to look at all available public documents which consisted of annual reports and meeting minutes on the Family Law Commission's website, which covered a 12-year period from 2004-2016. The total scope of this review includes a 17-year review period, except where noted.⁶

JLOSC Statutory Review Criteria #1

If the agency is a licensing agency, the extent to which the agency has allowed qualified applicants to be licensed.

Methodology for JLOSC Statutory Review Criteria #1

The Family Law Commission is not a licensing agency, statutory criteria #1 is not applicable to this review.

JLOSC Statutory Review Criteria #2

The extent to which the agency has served the public interests.

Methodology for JLOSC Statutory Review Criteria #2

The State of Delaware established the Family Law Commission in serve an advisory capacity to members of the General Assembly on matters relating to family law in Delaware.⁷

JLOSC Statutory Review Criteria #3

The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or primarily benefit the agency or other entities and are of only indirect benefit to the public.

⁴ 29 *Del. C.* § 10209.

⁵ Agency is a catch-all or blanket term. All 2022 reviews consist of commissions, councils, and committees.

⁶ Total review period December 2, 2004 – March 31, 2022.

⁷ 13 *Del. C.* § 20.

Methodology for JLOSC Statutory Review Criteria #3

The Family Law Commission recommended statutory changes to its enabling statute. JLOSC staff found information on specific statutory changes in meeting minutes and the received self-report.

JLOSC Statutory Review Criteria #4

Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during earlier legislative sessions.

Methodology for JLOSC Statutory Review Criteria #4

This is the first JLOSC review of the Family Law Commission, statutory criteria #4 is not applicable to this review.

Review Fieldwork completed

- Reviewed all information supplied by Family Law Commission members and staff.
 - Self-report.⁸
 - Unpublished draft annual reports for 2018 and 2021.⁹
 - Reviewed 2 boxes of documents provided on February 22, 2022, contents included:
 - Unpublished final annual report 2017.¹⁰
 - Draft and final meeting minutes not posted on the State of Delaware Public Meeting Calendar or Family Law Commission website.
 - 14 dates: February 16, 2017, March 16, 2017, April 20, 2017, May 18, 2017, September 21, 2017, November 16, 2017, January 18, 2018, March 15, 2018, January 24, 2019, and April 18, 2019, January 28, 2020, March 18, 2021, May 20, 2021, and June 24, 2021.
 - State of Delaware Public Meeting Calendar user guide and instructions.
 - Copies of meeting presentations and handouts used at Family Law Commission meetings.
 - Documents and letters received by the Family Law Commission from members of the public.
 - Copies of legislation discussed by the Family Law Commission.
 - Copies of letters sent by Family Law Commission members.
 - Printed pamphlets created by the Family Law Commission.¹¹
- Reviewed all available public documents from the State of Delaware Public Meeting Calendar and Family Law Commission’s website.
 - Past 17 years of meeting minutes and agendas.¹²

⁸ As part of the review process, JLOSC staff requested supplemental [documentation](#) (meeting minutes, annual reports, policy briefs, budget reports, organizational charts) to be submitted with the completed self-report by August 18, 2021. JLOSC staff received the completed self-report on October 4, 2021. In absence of requested supplemental documentation, JLOSC staff used available public documents and any items received from General Assembly staff during the review process.

⁹ Annual reports for 2019 and 2020 are not available.

¹⁰ Final annual report for 2017 not posted to the Family Law Commission’s website or submitted to the General Assembly.

¹¹ See Appendix C for the most recent printed pamphlet, copy also available on the Family Law Commission [website](#).

¹² As detailed in this report, Delaware’s Public Meeting Calendar is missing meeting minutes for 23 out of 35 meetings held from January 2016 through January 2022. The Family Law Commission’s website supplies meeting minutes

- Annual reports available on the Family Law Commission’s website.¹³
- JLOSC staff attended Family Law Commission meetings held on:
 - March 18, 2021.
 - May 20, 2021.
 - June 24, 2021.
 - July 22, 2021.
 - December 2, 2021¹⁴
 - January 20, 2022.
 - March 17, 2022.
 - March 31, 2022.¹⁵
- Reviewed current statute.
- Reviewed statute amendments.
- Reviewed proposed statute amendments and related meeting discussions.
- Reviewed Family Law Commission’s overall performance as it relates to current statute.
- Reviewed Family Law Commission’s compliance with Freedom of Information Act (“FOIA”).
 - State of Delaware Public Meeting Calendar: meeting notices, agendas, minutes.
- Reviewed Family Law Commission member size, quorum trends, and composition.
- Surveyed the public to gather opinions and experiences with committee.
 - Participation information posted on JLOSC’s website and the Division of Research’s twitter account. JLOSC staff emailed information to JLOSC mailing list subscribers and all entities under review.
- Held two virtual public input sessions to collect added public comment on review.
 - Participation information posted on JLOSC’s website and the Division of Research’s twitter account. JLOSC staff emailed information to JLOSC mailing list subscribers and all entities under review.
- Held virtual meetings with Family Law Commission staff, current members, and former members to discuss review.

Review Background

This is the first review of the Family Law Commission by JLOSC. The review began in April of 2021. JLOSC analysts emailed a [review notice](#) and comprehensive instructions via a [Google Drive link](#) on June 11, 2021. A completed self-report and supplemental documents for each entity under 2022 review were due back to JLOSC staff on August 18, 2021. JLOSC staff received a final self-report on October 4, 2021, which was sent to JLOSC members and uploaded to the JLOSC website. The Family Law Commission did not include the requested supplemental documents with the self-report. JLOSC staff communicated a list of missing meeting minutes from Delaware’s Public Meeting Calendar and requested Family Law Commission members and staff check email for any draft or final copies. On February 22, 2022, Family Law Commission staff provided JLOSC staff

from December 2, 2004 through November 19, 2015, and is missing the entire calendar year for 2014, as well as the 5 meetings held in 2015 (January 22, March 19, April 23, May 21, and October 29).

¹³ Family Law Commission’s website supplied annual reports for 2006-2016.

¹⁴ Meeting started but not held due to lack of quorum.

¹⁵ This meeting was planned and added by the Family Law Commission during its March 17, 2022 meeting. It was stated that a subcommittee of Commission members would meet to discuss the administrative functions of the Family Law Commission. While discussion on the public notice requirements for this meeting occurred, no public notice was provided on Delaware’s Public Meeting Calendar or the Family Law Commission website.

with 2 boxes of paper documents. The fieldwork section of this report includes a list of contents relevant to this review. JLOSC staff reviewed all public and supplied documents, conducted research, and incorporated any findings and recommendations into this report. JLOSC staff provided detailed [instructions](#) on a written response to the JLOSC Staff Findings and Recommendations Report (“Staff Report”) and the presentation meeting on January 25, 2022. JLOSC staff provided all 7 entities under 2022 review a 3-week period to review the Staff Report and submit written comments to be included with the published Staff Report. The Family Law Commission received a draft Staff Report on March 9, 2022 with further instructions on a written response as well as two deadline options. The Family Law Commission responded on March 10, 2022, selecting April 11, 2022 for its presentation meeting date with the deadline of March 30, 2022 for a written response. JLOSC staff followed the same review process for all entities under 2022 review, providing the same communications and instructions.

Background Research Synopsis

First created in 1984 as the Commission on Family Law, the Family Law Commission serves to evaluate, advise, and make recommendations to the General Assembly on matters relating to family law in Delaware. It is composed of 16 members, appointed by the President Pro Tempore of the Senate and the Speaker of the House.¹⁶ Members serve at the pleasure of the appointing authority for a term of 3 years. A majority vote in the House and Senate, with or without cause, can remove a member of the Commission.

Neither statute nor the General Assembly formally assign support staff to the Family Law Commission. According to its statute, the Family Law Commission must hold at least 4 meetings per year and on average has held 5 to 6 meetings per year since 2005.

The Family Law Commission is not meeting several of its statutory requirements and has a long history of FOIA compliance issues. There is a pattern of uncertainty in its meeting format, historically allowing annual public comments to influence and dictate its annual agenda, even when such topics as the Protection from Abuse and false allegations receive multiple presentations and information regarding its processes and history. There is no adequate system in place for the Family Law Commission to compile and publish research or policy efforts on common topics from its annual public hearing. Meeting minutes state that the “sounding board function has reached its end.”

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¹⁶ 13 *Del. C.* § 20.

STAFF FINDINGS

Finding #1

The General Assembly created the Family Law Commission in 1984 after a statewide Family Court was established 13 years prior. The Family Law Commission is not meeting several of its statutory requirements, cannot provide legal advice, no longer takes positions on legislation, and does not have the resources to provide meaningful information to the public. Recent updates to the statute did not successfully address areas identified by the Family Law Commission.

The General Assembly created the Family Law Commission in 1984 (originally named the Commission on Family Law) to study and evaluate domestic relation laws in Delaware and the rules and procedures of the newly formed statewide Family Court. The Family Law Commission began when the statewide Family Court had been in operation only 13 years. According to the Family Court website, a system of county specific juvenile courts previously existed to handle all matters involving family matters. This evolved into a statewide system known as Family Court, which gained statutory authority in 1971. Since the establishment of the Family Law Commission, much has changed within Family Court. In 2005, a Delaware constitutional amendment included Family Court as a constitutional court. In 2021, Family Court celebrated 50 years of operation. A review of available archived Family Law Commission meeting minutes and annual reports track the many Family Court improvements, such as increased customer service, streamlined operations, and improved information delivery.

Despite changes to Family Court, limited changes have occurred to the Family Law Commission's statute or processes in 38 years of operation. The Family Law Commission's statutory purpose, powers, and duties remain unchanged¹⁷:

The Commission shall study and evaluate the domestic relations laws of the State and the rules and procedures of the Family Court, review legislation affecting domestic relations law introduced in the General Assembly and Family Court rules and procedures, disseminate information about family law to the citizens of Delaware and engage in such other activities as it may deem appropriate in connection with the study, analysis, review and dissemination of information concerning family law. In furtherance and not in limitation of the foregoing, the Commission may:

- (1) Conduct public hearings;
- (2) Invite written comments on family law from members of the public;
- (3) Review and comment upon legislation affecting family law introduced in the General Assembly at the request of any member of the General Assembly or on its own initiative; and
- (4) Publish and disseminate information concerning family law to the public.

The Commission shall meet at least 4 times each year and shall report to the General Assembly its activities and recommendations at least once every year on or before March 15. The Commission shall not engage in the practice of law, shall not give legal advice of any kind to individuals about their rights or responsibilities (other than publishing and

¹⁷ 13 Del. C. § 2002.

disseminating comments about existing or proposed legislation or Family Court rules and procedures) and shall not intervene, directly or indirectly, in any case pending in any court.

By statute, the Family Law Commission must submit a report to the General Assembly at least once a year prior to March 15. The format of the annual report has varied but consists of either verbatim copies or summaries of meeting minutes. In reviewing meeting minutes, the discussion and approval of annual reports differed and was often after the March 15 deadline. Additionally, the Family Law Commission's website only includes annual reports for years 2006 through 2016. Annual reports for 2017 through 2021 are missing. During this review, the Family Law Commission supplied JLOSC staff with a draft copy of the 2021 annual report. A copy of the 2018 annual report was included in appendix A of the submitted self-report.¹⁸ The Family Law Commission also supplied 2 boxes of paper documents on February 22, 2022. While reviewing the contents, JLOSC staff found final copies of the 2017 annual report. Annual reports for 2019 and 2020 remain missing with no evidence from available meeting minutes that discussion related to their drafting occurred. Staff support and the role of the Family Law Commission Secretary is discussed in Staff Finding #10.

Statute allows the Family Law Commission to review and comment on legislation and publish and supply information to the public. This review found discussions of legislation did not result in official positions or endorsements in the past 6 years. There was discussion among members at the April 2019 meeting about the purpose of discussing legislation and whether the Family Law Commission would take a position. Some members responded by explaining that the Family Law Commission reviews and comments on proposed legislation but does not take a position, as membership includes 4 members of the General Assembly.¹⁹ In review of older minutes for meetings held from 2005 through 2009, the Family Law Commission did take official positions on legislation discussed and, in some cases, debated sending comments to the bill's primary sponsors. However, JLOSC staff did not find this practice used after 2009. Meeting minutes from June 2006 also mentioned Family Law Commission by-laws but no further mention was found in subsequent meetings and a copy of by-laws is not on the Family Law Commission website.²⁰

The Family Law Commission website is not housed within the General Assembly's website, causing issues with updated content. The Family Law Commission mentioned issues with website updates in its self-report, however meeting minutes in 2005 and 2006 discussed the creation of the website and cited the state agency contact responsible for its creation and updates.

Additionally, this review found the website lacking in other informational areas such as meeting minutes, annual reports, and general resources on family law topics. In response to a self-report question asking if any board functions were outdated or no longer needed, the Family Law Commission summed up its lack of public education services by saying:

The FLC [Family Law Commission] has not in many years been an educator to the public about family law or the Delaware Family Court. In the past 25 years, the Delaware Family Court has engaged in a great many programs and promulgation of materials, and the simplification of forms to make family law and the Delaware Family Court more accessible to litigants, especially pro se litigants. The FLC has neither the budget nor the staff to

¹⁸ Family Law Commission self-report available: https://legis.delaware.gov/Committee/Sunset/2022_JLOSCReviews

¹⁹ Family Law Commission documents do not provide details on how and if the 4 members of the General Assembly act on the behalf of the Family Law Commission.

²⁰ Family Law Commission by-laws not provided to JLOSC staff as part of this review.

promulgate meaningful information about family law or the Delaware Family Court, nor is it able to provide legal advice.

Recent updates to the Family Law Commission's governing statute occurred through Senate Bill 213 of the 149th General Assembly, enacted on July 23, 2018. The legislation clarified membership of licensed health care professionals and the name of the commission, but little else. Before updating its statute in 2018, the Family Law Commission discussed the following items for statutory update on several occasions:

- February 17, 2011: include 2 members from New Castle County, clarify removal by permitting Speaker of the House and the President Pro Tempore of the Senate to remove a member without a full vote of the House and Senate, and members of the Family Law Commission cannot have a personal open case pending in Family Court.
- November 17, 2016: clarifying membership language to include other qualified medical professionals, including retired judges, court commissioners, judicial officers, or a business owner, adding 6 interested citizens (2 from each county), and updating child psychologist member to 1 clinical psychologist.
- March 15, 2018: modify existing language requiring a licensed family practice physician or pediatrician to allow any person with a family medicine background to serve, other unspecified minor modifications.
 - Requested Ms. Huff, Family Law Commission member and Senate attorney, to draft legislation for consideration.
- April 19, 2018: discussed draft legislation updating family practice physician membership, clarifying 2 members from each county will serve, and changing the name from the "Commission on Family Law" to "Family Law Commission."
 - Draft legislation became Senate Bill 213, introduced on June 1, 2018.

It is unknown why Senate Bill 213 did not include the statutory updates discussed in 2011 and 2016. Additionally, the Family Law Commission continued to discuss updating the statute after the enactment of Senate Bill 213. It is unclear why the following discussions did not occur in March and April 2018 when drafting the legislation to update their statute.

- September 20, 2018: Chair brought up Family Law Commission statute and suggested dedicating upcoming meeting time to discuss modernizing the statute and to look at possible changes at the February 2019 meeting.
 - No discussion took place on the statute in the February 12, 2019 minutes and the discussion was tabled in the April 18, 2019 minutes. We do not have minutes for the May or June 2019 meetings.
- February 18, 2021: Family Law Commission members serve 3-year terms and can be reappointed, the statute could be changed to allow members to serve at the pleasure of the appointing authorities, legislation would be required.

There is currently no pending legislation for the Family Law Commission.

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Finding #2

Annual public hearings present issues of privacy, unrealistic expectations, and misunderstandings of the statutory duties and authority of the Family Law Commission, which does not have statutory or regulatory authority over Family Court operations. The September 2018 meeting minutes reflect a belief among some members that “the Commission’s function as a sounding board seems to have passed.”

The Family Law Commission statute states that it will conduct public hearings and invite written comments from the public. The Family Law Commission has held an annual public hearing to solicit public comments. These annual sessions have historically received one-sided, and often deeply personalized, comments. Due to confidentiality concerns, the Family Law Commission can only speak in general terms when discussing public comments received during these annual hearings. Moreover, the public often asks the Family Law Commission in verbal and written comments to act and help in unauthorized situations. The Family Law Commission has no statutory or regulatory authority over Family Court and, citing its statute and constitutional separation of powers, cannot get involved in pending cases or act as an outside appeal process. The Family Court has extensive appeals processes in place as a constitutional court of the State of Delaware, and all cases are appealable up to the State’s Supreme Court. The Family Law Commission recognizes this in its self-report stating, “many come to the Commission seeking redress of wrong, or oversight of the Family Court. Constitutionally, these requests are not possible due to the separation of powers in the Delaware Constitution.”

The Family Law Commission has dealt with public misunderstandings throughout its history. In meeting minutes from April 14, 2005, Nicole Kennedy, Director of Pro Se Services for Family Court, “mentioned an article in Sound Off that called it a Family Court Public Hearing, and she said the perception out there is that the hearing is a Family Court thing. The public is coming thinking they are coming talking to representatives of the Family Court when they are really coming talking to a Legislative Committee.” Katherine Jester, former State Representative, and a primary sponsor on the enabling Family Law Commission statute, said that she felt the Family Law Commission had gone off track from what it was established to accomplish. At the time, the Family Law Commission was discussing the comments received at the public hearing and sending personalized response letters. She cautioned that when a member of the public receives a letter from the Family Law Commission, they may get the impression and a sense of false hope that the Family Law Commission would solve their problem quickly, when that would not be a correct assumption. Representative Jester explained the intent and purpose of the public hearing was to give people a place to talk about their experiences and then the Family Law Commission would discuss if any policy could be suggested to the General Assembly or courts to improve operations. Other members commented that the Family Law Commission could not involve itself with specific public comments and, in general, public comments were citing specific case details and not Family Court operations.²¹ In more recent meeting minutes from September 20, 2018, “it was noted that the commission’s function as a sounding board seems to have passed.”²² JLOSC staff found that the Family Law Commission stopped the practice of sending personalized letters to public commentors.

This review could not find evidence of the Family Law Commission revising its communications to the public. The Family Law Commission recites its statute at the beginning of each public

²¹ It was noted at the March 17, 2022 meeting that Family Law Commission member Judge Jones must remove himself from listening to public comment at Family Law Commission meetings if it involves cases he is assigned to as he cannot hear testimony outside of the courtroom.

²² Also provided in the 2018 annual report attached as appendix A of the Family Law Commission’s self-report.

hearing stating what it can and cannot do. Also made available is a [*public input guideline*](#) form; however, it does not contain language regarding the Commission's lack of involvement in individual cases nor does it suggest public limit the scope of comments to overall procedural concerns of Family Court.²³

This review found other areas of public confusion such as the name and membership. The use of the word "commission" implies the entity is associated with granting authority or supervisory powers. Using the word "commission" coupled with its membership of legislators, legal and medical professionals, the public has assumed the Family Law Commission could act on matters relating to their individual case. JLOSC staff did not find evidence in its review that the Family Law Commission considered statute updates to clarify public confusion.

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²³ See appendix B for form.

Finding #3

The Family Law Commission is inconsistent in its meeting format and historically allowed annual public comments to influence and dictate its annual agenda despite the repetition of topics discussed. For example, public comment topics such as Protection from Abuse (“PFA”) and false testimony received multiple meeting presentations, often with the same processes and historical information provided to the Family Law Commission. This information is not adequately compiled or published for the public and stakeholders, therefore, becomes a recurring agenda item with no new policy review or analysis offered.

In review of available meeting minutes and annual reports from December 2, 2004 through June 24, 2021, three Chairs served the Family Law Commission. Each Chair discussed the direction the Family Law Commission should take and how to structure its meetings. Regardless of membership, the Family Law Commission followed the same pattern each year of holding an annual public hearing in either January or March to solicit public comment and discussed public comment received in a later meeting. The following three charts trace the popularity of public comment topics while showing the decline in comments received.

Family Law Commission Number of Public Comments Received at Annual Public Hearing

Year	Date of Annual Public Hearing	Number of Public Comments Received at Annual Public Hearing
2005	3/16/2005	21
2006	1/11/2006	25
2007	1/10/2007	20
2008	1/15/2008	17
2009	3/26/2009	16
2010	1/12/2010	unknown*
2011	1/18/2011	unknown*
2012	1/12/2012	unknown*
2013	1/24/2013	10
2014	1/20/2014	unknown**
2015	1/22/2015	10
2016	1/21/2016	5
2017	2/16/2017	7
2018	1/18/2018	6
2019	1/24/2019	5
2020	1/28/2020	6
2021	1/21/2021 (virtual)	2
2022	1/20/2022 (virtual)	5***

*Unknown because meeting minutes changed format and didn't provide number of comments.

**Number of public comments are unknown due to missing meeting minutes.

***Number of public comments observed by JLOSC staff in attendance; draft minutes are not available.

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Family Law Commission Number of Public Comments Received at Annual Public Hearing with Popular Topics, 2005-2012

Year	Date of Annual Public Hearing	Number of Public Comments Received at Annual Public Hearing	Popular Topics
2005	3/16/2005	21	<ul style="list-style-type: none"> • Role of Family Law Commission. • Family Court logistics, training of mediators, response times. • Child support and Melson formula. • Plea bargaining. • Audio tape availability. • PFAs and false accusations. • Equal treatment of fathers and mothers. • Open Family Court.
2006	1/11/2006	25	<ul style="list-style-type: none"> • Role of Family Law Commission. • Family Court logistics, training of mediators, response times. • Family Court evening operating hours. • Child support and Melson formula. • PFAs and false accusations. • Plea bargaining. • Contempt Commissioner. • Audio tape availability. • Equal treatment of fathers and mothers. • Open family court.
2007	1/10/2007	20	<ul style="list-style-type: none"> • An open/transparent Family Court. • Need for more electronic court reporters. • Availability of CD transcripts of Court proceedings. • Qualifications and practices of child custody evaluators. • Fees for Parent Coordinators. • Changing the Hearing to a different night of the week.
2008	1/15/2008	17	<ul style="list-style-type: none"> • An open/transparent Family Court. • False allegations. • Child support Enforcement. • Qualifications and practices of child custody evaluators. • High cost of attorney fees.
2009	3/26/2009	16	<ul style="list-style-type: none"> • PFAs and false accusations. • Hostility from law enforcement. • Child support modifications. • Family Court transcripts
2010	1/12/2010	unknown*	<ul style="list-style-type: none"> • Child custody. • Child support. • PFAs and false accusations. • Family Court Commissioners. • Paternity fraud.
2011	1/18/2011	unknown*	<ul style="list-style-type: none"> • Child custody. • Child support. • PFAs and false accusations. • Domestic violence support. • Family Court Commissioners. • Family Court policies and procedures.
2012	1/12/2012	unknown*	<ul style="list-style-type: none"> • Child Support. • DNA testing, paternity testing, paternity fraud. • Family Court policies and procedures: open vs. closed courts. • Domestic violence.

*Unknown because meeting minutes changed format and did not provide number of comments.

**Number of public comments are unknown due to missing meeting minutes.

***Number of public comments counted by JLOSC staff who attended the annual meeting, draft minutes are not available.

Family Law Commission Number of Public Comments Received at Annual Public Hearing with Popular Topics, 2013-2022

Year	Date of Annual Public Hearing	Number of Public Comments Received at Annual Public Hearing	Popular Topics
2013	1/24/2013	10	<ul style="list-style-type: none"> • Recording public hearings. • Open vs. closed Family Court proceedings. • Parental involvement. • Judicial and legislative abuse of power. • Males being treated fairly by the court.
2014	1/20/2014	unknown**	<ul style="list-style-type: none"> • Fair treatment of involved fathers. • Opening of Family Court proceedings. • The Sex Offender Registry. • Property division. • PFAs and false accusations. • Judges' education and discretion. • Licensing of child evaluators, attorney conduct, domestic violence.
2015	1/22/2015	10	<ul style="list-style-type: none"> • The handling of juvenile delinquency cases • Request to expedite property settlements in divorce cases. • Expanding Family Court's equity powers to correct errors. • PFAs and false accusations. • Family Court procedures. • Connecticut Family Court operations compared to Delaware. • Child support.
2016	1/21/2016	5	<ul style="list-style-type: none"> • PFAs and false accusations. • Blue Ribbon Task Force, open Family Court. • Greater transparency of court proceedings. • Child Protection from Domestic Violence and Sex Offenders Act past convictions not related to child present issues with custody. • Visitation rights.
2017	2/16/2017	7	<ul style="list-style-type: none"> • PFAs and false accusations. • Child Protection from Domestic Violence and Sex Offenders Act past convictions not related to child present issues with custody. • Visitation and custody. • Parental alienation. • Need for domestic violence victim support.
2018	1/18/2018	6	<ul style="list-style-type: none"> • PFAs and false accusations. • Child Protection from Domestic Violence and Sex Offenders Act past convictions not related to child present issues with custody. • Visitation and custody. • Parental alienation. • Need for domestic violence victim support.
2019	1/24/2019	5	<ul style="list-style-type: none"> • PFAs and false accusations. • Child Protection from Domestic Violence and Sex Offenders Act past convictions not related to child present issues with custody. • Visitation and custody. • Parental alienation. • Need for domestic violence victim support.
2020	1/28/2020	6	<ul style="list-style-type: none"> • Domestic violence victim support. • Child Incorporated presented information on organization. • Parental Alienation Study Group presented information. • Issues with quality of technology provided by Family Court on CDs, suggested thumb drive as alternative. • Accuracy of claims and false accusations. • Divorce cases should include a full psychological evaluation and sporadic in-home checks. • Division of Child Support Services spoke on recent updates.
2021	1/21/2021 (virtual)	2	<ul style="list-style-type: none"> • PFAs and false accusations. • Alleged address error. • Improve coordination of services for victims of domestic violence. • Need for increased public information on available legal services. • Support for pro se litigants. • High number of PFA case dismissals. • Electronic filing system updates (electronic docket). • Building more courts to keep up with demand.
2022	1/20/2022 (virtual)	5***	<ul style="list-style-type: none"> • Domestic violence victim support. • PFAs dismissed before hearings. • Need for service system updates. • False accusations and child abuse concerns. • Child support. • Division of Child Support Services spoke on recent updates.

*Unknown because meeting minutes changed format and did not provide number of comments.

**Number of public comments are unknown due to missing meeting minutes.

***Number of public comments counted by JLOSC staff who attended the annual meeting, draft minutes are not available.

After the annual public hearing, the Family Law Commission would discuss the comments received at its next meeting, using them as a guide for subsequent discussion items. JLOSC staff observed in archived meeting minutes and annual reports from 2006 through 2016, most meetings held after the annual public hearing would receive presentations from experts and agencies, speaking on topics brought up by the public, often given specific questions in advance from the Family Law Commission. Though the presentations decreased after 2016, the Family Law Commission continued the annual presentation from the Chief Judge of Family Court, who supplied court updates and answered member questions, including questions on the repeated topics of PFAs and false allegations.

Throughout all available meeting minutes and annual reports, the topics of PFAs and false allegations stayed as reoccurring topics of discussion among Family Law Commission members and the public. Since 2006, multiple experts and agency staff members have spoken to the Family Law Commission on the topic. The Family Law Commission formed a subcommittee in 2009 to look at case files from annual public hearing participants who allowed access. The subcommittee did not find any prevailing issues of concern from the document review. The following list is not exhaustive but provides many examples of information the Family Law Commission has received on these topics.

- April 6, 2006: Carl Danberg, Attorney General.
 - Asked to speak on topic of false allegations, explained there was no way to prevent false allegations and the burden proof is difficult to establish.
 - PFAs are needed and necessary in domestic violence cases.
- May 11, 2006: Chandlee Johnson Kuhn, Chief Judge of Family Court.
 - Annual report announced that a Writ of Sequestration procedure was implemented on November 1, 2005.
- May 14, 2009: Secretary Schiliro, Department of Homeland Security, Bridget Poulle, Domestic Violence Coordinating Council in Family Court, Elizabeth Olsen, Deputy Secretary for Public Safety (had experience with PFA's when she was a private attorney), and Sergeant Randy Fisher, Domestic Violence Coordinator for the Delaware State Police.
 - Bridget Poulle said, "In her opinion there is not as much abuse of a PFA as people seem to believe. In their report of 2007, she said that of the 3,130 petitions processed, 1,695 PFA's were never even issued."
- February 18, 2010: James G. McGiffin, Jr., Esq., member of the Community Legal Aid Society ("CLASI"), previously worked as a Family Court Commissioner.
 - He had the responsibility of hearing all PFA cases in Kent and Sussex County. He shared his extensive background in dealing with PFA orders in Family Court.
 - An area for statutory revision would be adding a preliminary injunction to prevent the removal of a valuable items from the residence.
- May 13, 2010: Chief Judge Chandlee Johnson Kuhn of Family Court.
 - Discussed PFAs at length.
 - Stated she felt PFA abuse is now occurring less than it had been in the past and a "PFA is based on a preponderance of evidence."
- April 14, 2011: PFA, False Allegations and Domestic Violence Speakers: Commissioner Blades Adrienne Owen, DSP Jim McGiffin, CLASI.
 - Meeting minutes state, "One of the speakers mentioned that frequently it is a "he said, she said" situation with no witnesses to the alleged abuse. The

Commissioners/Judges have to make the decision based on relative credibility of the parties. The statistics from the Domestic Violence Coordinating Council show that 34% of PFA cases were voluntarily dismissed.”

- June 7, 2012: Charles Hayward and Gwen Anderson, Delaware Division of Child Support Enforcement, Bridget Poulle, Domestic Violence Coordinating Council.
 - Ms. Poulle stated, “there were 3,254 PFAs filed with 1,480 as emergency orders. Of the total amount, only 1,673 PFAs were granted, with 61% of petitioners failing to appear.”
 - Mentioned if an individual believes there is perjury, they can civilly sue the other party.
- June 19, 2014: Master Corporal Adrienne Owen and Victim Services Specialist Veronica Colombo, both of the Delaware State Police; Deputy Attorney General Patricia Dailey Lewis; Mariann Kenville-Moore, Policy Coordinator of the Delaware Coalition Against Domestic Violence.
 - Provided a detailed account of how PFA orders are issued and an overview of the Delaware State Police’s handling of domestic violence cases.
 - “Of the total number of PFA proceedings initiated, 48 percent resulted in the issuance of orders, while 52 percent were dismissed.”
- April 23, 2015: Family Law Commission members discussed PFAs with no reference to previous information shared by subject matter experts.
- Sept. 15, 2016: Special meeting dedicated to discussing PFAs and allegations of misuse. Invited guests to discuss PFAs: Chief Judge Michael Newell, Family Court, Commissioner Andrew Southmayd, Family Court, Ellie Torres, Family Court, and LaKresha Roberts, Esq., Dept. of Justice.
 - Detailed process of obtaining PFA’s, Court granting and denying PFA’s, PFA appeal process.
 - Deputy Attorney General LaKresha Roberts, Director of the Department of Justice’s Family Division, stated per meeting minutes, “Perjury is a criminal charge and a PFA proceeding is a civil matter. She noted that inconsistent statements in a civil matter may not and often do not rise to the level of criminal behavior that can be prosecuted beyond a reasonable doubt.”
- May 17, 2018: Annual Family Court presentation by Chief Judge Michael Newell, accompanied by the new Court Administrator, Saul Hernandez and Eleanor Torres, Counsel to the Chief Judge.
 - Updates included information on additional time dedicated to PFA cases due to a federal grant to fund a Family Court Enhancement Project, revised PFA information packets, documenting specific findings in PFA orders, addressing some litigants perceived abuse of the PFA process, and “informing judges when a PFA is filed in that judge’s active custody case (the judge may elect to take oversight of the PFA away from the commissioner overseeing it).”

Despite half of its current appointed members serving for the past 8 years and 3 serving for 17 years, JLOSC staff did not find information received in these presentations repeated for newer members, nor was it provided to the public or other stakeholders.²⁴ The available meeting minutes

²⁴ Information only provided in meeting minutes and annual reports, not provided in a single document on information regarding frequent topics from public comment.

and annual reports do not show this information compiled and published for the benefit of members, legislators, or the public. For example, at the April 19, 2018 meeting, a Family Law Commission member proposed having a broader discussion of PFA orders and their alleged misuse. Another member responded that Family Court had improved its management of PFA cases however, none of the previously presented information that occurred over the past 12 years was discussed. Additionally, by statute, the Family Law Commission is tasked with publishing information for public consumption concerning family law. The Family Law Commission could have published the information it received on all frequently discussed topics such as PFAs and false allegations. Documents compiling information collected by the Family Law Commission on popular topics would also help new Family Law Commission members as well as members of the General Assembly and the public.

Finding #4

Historically, employees of Family Court or a legislative task force has conducted family law policy research instead of the Family Law Commission. Prior to 2011, the Family Law Commission used subcommittees; but did not record subcommittee meetings on the Family Law Commission website or the Delaware Public Meeting Calendar and meeting minutes from these subcommittees are unavailable. Subcommittee updates stopped appearing in meeting minutes after 2011. Task forces formed with or without Family Law Commission suggestion with one created based on public testimony at a Joint Finance Committee hearing. JLOSC staff reviewed available meeting minutes and annual reports of the Family Law Commission dating back to December 2, 2004. There were instances prior to 2015 showing family court employees involved in helping the Family Law Commission research issues. These employees issued a report dated June 9, 2011, which the Family Law Commission keeps on its website.²⁵

With the prominence of the PFA and false allegation discussions, it is unknown why the Family Law Commission did not conduct its own research to review Family and Supreme Court cases. During this review, a rapid Westlaw search by JLOSC staff yielded 5 cases detailing review decisions and had frequently discussed topics such as objections to Commissioner’s orders, PFA case dismissals, and issues with one-sided testimony (false allegations).

While there is no evidence that the Family Law Commission conducted its own research to review appealed cases, there is limited information showing members conducted additional discussions and research using subcommittees. Family Law Commission annual reports and meeting minutes from 2005 through 2011 included limited subcommittee information about formation and completed work. If a subcommittee update appeared in annual reports or meeting minutes, it was short in length and supplied few details. The Family Law Commission website and Delaware Public Meeting Calendar does not include subcommittee information such as meeting dates, agendas, or minutes, so a complete record of their work does not exist.²⁶ Meeting minutes and annual reports show the Family Law Commission formed the following subcommittees:

- 2005-2006: 1 subcommittee held meetings to discuss the issue of an open Family Court. Additional public comment collected and, “Attorney General Carl Danberg remarked on this issue at the April 6, 2006 FLC [Family Law Commission] meeting. He stated that he

²⁵ Report on Family Court Accessibility and Litigant Resources found at <https://flc.delaware.gov/wp-content/uploads/sites/57/2017/03/FCAccessibilityLitigantResources-2.pdf>

²⁶ Subcommittees are considered public bodies under FOIA and have the same meeting notice and record requirements as the main committee.

would NOT like to see the Family Court opened in all cases – especially when children are involved.”

- 2009: 1 subcommittee was formed and reviewed cases from the public who had attended the annual public hearing and signed a waiver to allow access to the case file. These waivers were not provided to JLOSC staff.
 - Did not find any broad issues that could be addressed by the Family Law Commission.
 - Found that Family Court had “done due diligence with the cases, and the conclusion was that there was no need for them to review them any further.”
 - The individuals who requested their case be reviewed were not happy with the outcome of the order, but the subcommittee could not find any fraud or issues.
 - Subcommittee discussed getting pro-se counselors available to help individuals who have mental health issues.
 - Chair requested brochures on counseling services be supplied and made available.
- February – May 2010: 2 subcommittees met, 1 continued to meet to review case files of the public who had signed waivers, and another formed to discuss the topic, “How Neighboring States are Addressing Issues that Our Family Court are Now Facing and How Other States are Solving Similar Problems.”
 - Waiver subcommittee completed work and did not find anything the Family Law Commission could address.
 - Neighboring states subcommittee received information supplied by a House legislative aide and legislative fellow, but the subcommittee had not held a meeting following the receipt of information.
 - May 17, 2018 meeting minutes included a recap of a trip 3 members of the Family Law Commission took to Hartford, Connecticut to study its family court procedures. The meeting minutes or annual report did not include an official report.²⁷
- July 2010: 3 subcommittees formed to meet and discuss top issues and look at other state processes in relation to these issues, scheduled meetings for September through December 2010 and report findings in 2011 meeting.
 1. Paternity Fraud, DNA.
 2. PFA, false allegations, with goal to identify issues and reduce misuse of PFA process.
 3. Feasibility of evening hours in Family Court, with a goal to increase general public’s access to Family Court.
- February 2011: Family Law Commission discussed subcommittee reports.
 1. Paternity Fraud, DNA.
 - Reported that legislation drafted by Senator Ennis passed the Senate in June, that the subcommittee is complete.²⁸
 2. PFA, false allegations.

²⁷ JLOSC staff found prepared notes from the Connecticut trip and three reports from Connecticut on judicial branch family court initiatives, strategic planning, and child support guidelines. However, these notes and reports were located in a box of documents provided to staff and are not publicly accessible on the Family Law Commission website and not included with meeting minutes or annual reports.

²⁸ 147th General Assembly, Senate Bill 235, passed by Senate on June 17, 2014, introduced in House June 19, 2014, but was not considered.

- Subcommittee reported that it received research from legislative fellows in 2010 about how other states handled the topic.²⁹
3. Feasibility of evening hours in Family Court.
- Reviewed several ideas with Family Court, focused on implementing online chat feature.³⁰

After 2011, meeting minutes and annual reports of the Family Law Commission no longer mentioned subcommittees or include research information.³¹ In addition to subcommittees, the Family Law Commission took part in task forces. Some task forces such as the “Fairness for All” task force in 2009 did not form at the Family Law Commission’s suggestion.³² It was said in the March 2009 meeting minutes that a member of the public supplied testimony at a Joint Finance Committee hearing the previous year and encouraged the creation of a task force to hear directly from litigants using Family Court. The Family Law Commission and its processes were bypassed in lieu of direct contact with members of the General Assembly.

The Family Law Commission began forming its own task force in 2012 to review the issue of open family court. Like the topics of PFAs and false allegations, the topic of open court was frequently discussed before this task force, with many leaders including Attorney General Carl Danberg cautioning that all cases should not be open. From meeting minutes and annual reports, there was discussion on common misunderstandings within the public involving the term “open court.” Senate Concurrent Resolution 9 formed the task force in 2013 and became known as the Blue-Ribbon task force. The task force held a total of 6 meetings between October 2013 and April 2014. A final report is available on the Family Law Commission’s website.³³ In the June 19, 2014 meeting minutes, a synopsis of the findings and work of the task force stated:

It was learned that a non-lawyer could easily misinterpret the meaning of “open” to mean “all proceedings should be open to the public.” However, the Delaware Supreme Court has reviewed this matter and has rendered an opinion clarifying that the term “open court” means that all persons shall have access to the court without having to pay for justice. The Task Force also learned that having closed/private hearings is constitutional when established by statute and when factors can be clearly articulated as to why privacy is required.

After the conclusion of the task force’s work, Senate Bill 119 was introduced and passed the Senate on June 24, 2015. The bill stalled in the House after 12 attorneys sent testimony to the General Assembly expressing concerns. This letter was discussed at a March 17, 2016 Family Law Commission meeting:

²⁹ No other updates presented by this subcommittee in meeting minutes, research never shared in meeting minutes or annual reports.

³⁰ Family Court did implement the online chat feature.

³¹ Family Law Commission meeting held on March 17, 2022 created a subcommittee to meet and discuss administrative functions. Discussion included the meeting date of March 31, 2022 at 10:00 a.m. and acknowledged that a public meeting notice needed to be posted on Delaware’s Public Meeting Calendar and the Family Law Commission’s website. The subcommittee held a meeting on March 31, 2022 via zoom and did not provide a meeting announcement or agenda, failing to comply with FOIA’s 7-day meeting notice requirement.

³² April 9, 2009 meeting minutes referred to this task force as the “Fairness for All” task force. The Family Law Commission’s website does not include a final report from this task force.

³³ Final report available at: <https://flc.delaware.gov/wp-content/uploads/sites/57/2017/03/SCR9FamilyCourtTaskForceFinalReport-2.pdf>

The letter states that “the Family Court and its litigants are well served by the current statutory framework which presumptively closes property division, alimony, and paternity hearings, though allowing members of the public to attend when “appropriate circumstances” exist. Mr. Boyer also alleged that SB 119, if enacted, “will create new and unnecessary challenges for the Family Court, will put our litigants at risk, and will delay the administration of justice.”

The Family Law Commission discussed reaching out to try and find consensus, but the House did not pass Senate Bill 119.

Finding #5

This review observed severe FOIA compliance issues with agendas and meeting minutes. JLOSC staff saw an extensive history of noncompliance with FOIA’s opening meeting requirements.

The Family Law Commission is a public body as defined by the Freedom of Information Act (“FOIA”).³⁴ During the course of this review JLOSC staff reviewed the past 6 years of held meetings and checked for FOIA compliance on meeting notice, agendas, and minutes. Using FOIA open meeting requirements the *FOIA Scorecard* below notes the following FOIA compliance items³⁵:

- Every meeting must be open to the public, except for valid exception under FOIA.
 - Executive session closed to the public for FOIA named purposes.
- Public notice of regular meetings posted at least 7 days in advance of the meeting.
 - Includes agenda if determined.
 - Posted within 6 hours in advance of the meeting with reason for posting delay included.
 - Posted in public location accessible to the public, including electronic posting on designated State of Delaware website.³⁶
 - Includes date, time, and place of meeting.
 - Indicates intent to hold executive session (if applicable).
- Agenda is subject to change, changes may include:
 - Added items, including executive session.
 - Deletion of items, including executive session.
- Minutes recorded and made available for public inspection and copying as a public record. Minutes must include the following:
 - Record of members present.
 - Record by individual members of each vote taken and action agreed on.
- Final minutes posted within 5 working days of final approval.
 - Draft minutes posted within 20 working days of meeting conclusion for public bodies who meet 4 or fewer times per year.

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³⁴ 29 Del. C. § 10002.

³⁵ 29 Del. C. § 10004.

³⁶ Designated website is Delaware’s Public Meeting Calendar: <https://publicmeetings.delaware.gov>

FOIA Scorecard for January 2016 – January 2022	
Total Meetings Held and Open to Public	35*
Properly Noticed Meetings	33
Properly Posted Agendas	14
Properly Posted Meeting Minutes (final)	2**
Missing Agendas	17
Agendas Posted After the Meeting	4
Missing Minutes	23
Meeting Minutes Posted Late	9
Number of Executive Sessions Held	0

*Meeting scheduled for December 2, 2021 did not have quorum, no business discussed, meeting concluded shortly after starting. Meeting not included in total meetings held and open to the public count.

**Meeting minutes from the January 20, 2022 meeting are not included because the Family Law Commission has not held a meeting to approve and post a final copy.

JLOSC staff reviewed Delaware’s Public Meeting Calendar for all meetings held by the Family Law Commission during a 6-year review period (January 2016 – January 2022). Delaware’s Public Meeting Calendar keeps a record of all administrative actions for a meeting date including announcement creation date and posting dates for agendas and minutes. During the review period, the Family Law Commission properly noticed 33 out of 35 public meetings held, 2 meeting announcements did not supply 7 days’ notice.³⁷ Not included in this total are 7 noticed meetings, 6 cancelled and 1 meeting held on December 2, 2021 did not have quorum. The Family Law Commission did not discuss agenda items, and the virtual meeting ended soon after it started. Only 14 meeting announcements included properly posted agendas, which met FOIA requirements, and no executive sessions were held. The Family Law Commission eventually posted meeting agendas for 4 meetings several months after the meeting was held. The agendas posted appear to have the required FOIA information. The minutes posted do not include member voting information including motions or seconds on the approval of minutes or annual reports. Posted meeting minutes do not include Family Law Commission votes for anything other than meeting minutes or annual reports and the Family Law Commission did not vote on meeting minutes in all posted minutes for assorted reasons including lack of quorum or not prepared in a satisfactory manner.

The Family Law Commission has not posted final meeting minutes since May 1, 2019 for its February 21, 2019 meeting. The Family Law Commission has draft minutes posted for meetings held on January 21, 2021, September 20, 2018, and November 17, 2016. There are 11 posted meeting minutes and 23 missing meeting minutes as depicted in the following chart.

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³⁷ A meeting for March 14, 2018 is presumed to be posted in error since there was a meeting notice posted for March 15, 2018 with an agenda included.

Posted and Missing Meeting Minutes by Meeting Date

Meeting Dates with Meeting Minutes Posted on PMC	Meeting Dates with Missing Meeting Minutes on PMC
1/21/2016 (final)	2/16/2017
3/17/2016 (final)	3/16/2017
4/14/2016 (final)	4/20/2017
5/12/2016 (final)	5/18/2017
9/15/2016 (final)	9/21/2017
11/17/2016 (draft)	11/16/2017
4/19/2018 (final)	1/18/2018
5/17/2018 (final)	3/15/2018
9/20/2018 (draft & final)	1/24/2019
2/21/2019 (final)	4/18/2019
1/21/2021 (draft)	5/16/2019
	6/20/2019
	1/28/2020
	2/20/2020
	4/28/2020
	5/21/2020
	6/18/2020
	11/19/2020
	2/18/2021
	3/18/2021
	5/20/2021
	6/24/2021
	7/22/2021

Annual public hearing dates are in bold type.

Minutes from the 1/20/2022 public hearing not available and not included in this chart.

When JLOSC staff saw the large absence of meeting minutes on Delaware’s Public Meeting Calendar, the scope of this review was expanded to include archived meeting minutes posted on the Family Law Commission’s website. The Family Law Commission’s website includes archived minutes for meetings held on December 2, 2004 through June 6, 2013, and on November 19, 2015. The entire calendar year for 2014 is missing, as well as the 5 meetings held in 2015 (January 22, March 19, April 23, May 21, and October 29). Additionally, minutes for June 9, 2011 are also missing because the website incorrectly opens minutes from the June 11, 2009 meeting. Annual reports for years 2006 through 2016 are available on a separate page of the Family Law Commission’s website which include meeting dates and summaries.

In these archived meeting minutes and annual reports, JLOSC found information from a March 16, 2005 public hearing alleging that the Family Law Commission has a pattern of not posting minutes and public information. A member of the public said:

While at the [Public] Archives, I read the transcript from the Commission’s 1999 open [annual] hearing, which, by the way, was the only information in the Delaware Archives on our [the Commission’s] 21 years of existence. Interestingly enough, the same suggestions offered year after year for improvement in Family Court were offered in 1999.

The same public member went on to recount trying to obtain meeting minutes from the Commission's 2004 public meeting and a member of the Family Law Commission said they were not available. Additionally, in the Family Law Commission's meeting minutes from May 2005, founding member Katherine Jester explained that she was unaware the minutes were not public and was working on getting them delivered to Public Archives.³⁸ In the 2006 annual report, the Family Law Commission answered a question from the public about the availability of its annual reports by saying it would post the report on its website moving forward. Lastly, in the June 8, 2006 meeting minutes, a Family Law Commission member said that 2006 was the year the Family Law Commission established a website and started posting meeting minutes and other information.

During this review, JLOSC staff requested meeting minutes and annual reports (whether in draft or final form) from Family Law Commission members and staff. A Family Law Commission member sent draft copies of the 2018 and 2021 annual reports.³⁹ Family Law Commission staff supplied 2 boxes of paper files on February 22, 2022. In the paper files, JLOSC staff recovered a final copy of the 2017 annual report and meeting minutes for the following 14 dates: February 16, 2017, March 16, 2017, April 20, 2017, May 18, 2017, September 21, 2017, November 16, 2017, January 18, 2018, March 15, 2018, January 24, 2019, and April 18, 2019, January 28, 2020, March 18, 2021, May 20, 2021, and June 24, 2021.

It is unknown why Family Law Commission meeting minutes and annual reports are missing, meeting minutes show members reviewing and approving the materials. Additionally, JLOSC staff found printed information in the Family Law Commission files with instructions on how to use the Delaware's Public Meeting Calendar with a member stating at the February 18, 2021 meeting, "minutes should be on the Family Law [Commission] website in a timely manner.

Finding #6

Since 2016, the average attendance rate by Family Law Commission members is 64% with only 56% of meetings having a quorum of members present. Currently, there is 1 vacancy.

JLOSC staff reviewed the minutes of meetings held during the January 21, 2016 through January 20, 2022 timeframe to calculate quorum trends. Minutes for 8 meetings remain missing after review of supplied paper files, so JLOSC staff calculated quorum trends based on the 27 meeting minutes available during this timeframe. Only 15 meetings (56%) had a quorum of its members present. JLOSC staff used the standard quorum definition of the majority of members present being 51% of total members as defined by statute, or 9 of 16. The Family Law Commission's statute does not define quorum and the Family Law Commission has not been consistent in quorum determination. When asked in the self-report how the Family Law Commission defined quorum and to name the location of the definition used, the Family Law Commission responded, "2/3's. Roberts," which would require 11 members to be present for quorum. In minutes from meetings held in 2016 through 2018, members recorded votes to approve meeting minutes or annual reports with only 7 or 8 members present. In contrast, meeting minutes recovered for meetings held in May and June 2021, both had 8 members present and the Chair said a quorum was not present to

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³⁸ JLOSC staff confirmed with the Division of Research Librarian that the Online Guide to the Collections of Public Archives includes Family Law Commission records from 1984-1992, 1996, 1999 (public hearing), and 2003-2005.

³⁹ Family Law Commission 2018 annual report included as appendix A of self-report.

vote on meeting minutes. Additionally, appointed members of the Commission have varied since 2016:⁴⁰

- 2016: 12 members appointed, 4 vacancies.
- 2017: 15 members appointed, 1 vacancy.
- 2018: 14 members appointed, 2 vacancies.
- 2019: 14 members appointed, 2 vacancies.
- 2020: 13 members appointed, 3 vacancies.
- 2021: 15 members appointed, 1 vacancy.⁴¹

Finding #7

Public outreach survey received a low response rate and all respondents had limited experience and knowledge of the Family Law Commission.

JLOSC staff conducted a public outreach survey from August 9 – September 30, 2021 and received 6 responses for the Family Law Commission. With such limited data received, the following information is supplied for public comment value only and did not have impact on staff research or recommendations.

Of the 6 survey responses received, only 1 respondent indicated direct experience with the Family Law Commission but rated their familiarity with the Family Law Commission as only “somewhat familiar.” On a scale of “not at all familiar” to “extremely familiar,” 4 other respondents also rated their familiarity as “somewhat familiar” and 1 respondent rated their familiarity as “not at all familiar.”

The survey only received 1 written comment for the Family Law Commission that voiced an opinion that this entity should not be sunset because “there’s a national issue regarding family law and social injustice that black [*sic*] and brown families have suffered in the DE Family law Courts [*sic*] and the DOJ.” This respondent also indicated that they were “undecided or not sure” regarding the overall value the Family Law Commission provides the State of Delaware because they were unaware of the Family Law Commission’s existence before they entered the survey. The other 5 respondents were split on their opinion on the Family Law Commission’s overall value with 2 selecting “very valuable,” 2 picking “somewhat valuable,” and 1 chose “not at all valuable.”

JLOSC staff supplied the public an opportunity for additional comments and held 2 virtual public comment sessions in October 2021.⁴² JLOSC staff did not receive comments for the Family Law Commission.

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⁴⁰ JLOSC staff could not find official records for membership after 2017 and membership information on the Family Law Commission’s website is out of date based on annual reports and meeting minutes. JLOSC staff calculated appointed members by tracking meeting attendance from available meeting minutes from January 2016 through June 2021 and using information provided in the self-report.

⁴¹ As stated in the self-report received from the Family Law Commission on October 4, 2021.

⁴² Both sessions recorded and archived on the General Assembly YouTube [page](#).

Finding #8

Lack of consistent staffing for the Family Law Commission is an issue raised in the self-report; however, it did not surface as a discussion topic in Family Law Commission meeting minutes until 2021. Delaware’s General Assembly has limited permanent staff, but currently assigns 2-3 employees to assist part-time with administrative duties. The Family Law Commission is the only public body of its kind that exists in the General Assembly. Its statute does not define a source for staff support but supplies authority for the Chair to appoint a Vice Chair and Secretary. The Family Law Commission appointed a secretary in 2019 following a 7-year vacancy, but still requires staff support for meeting minutes and annual reports.

The Family Law Commission statute does not specify who supplies support staff and the self-report showed staffing as an issue. In review of all meeting minutes and annual reports available from 2004 through 2021, staff support was not a common topic discussed in meetings. Historically, there was always 1 person assigned as the point of contact with various Senate legislative aides as added support. Meeting minutes from February and March 2021 discussed recent staffing issues. Meeting minutes from February 2021 announced a staff member supporting the Family Law Commission would be leaving the Senate and the Family Law Commission would need a replacement. The Family Law Commission discussed staffing and considered contacting Legislative Council about adding 2 staff positions and supplying a staff member for the Family Law Commission. The meeting minutes do not go into further detail, but legislative staffing should be considered in general.

This is the only public body of its kind that exists in Delaware’s General Assembly. Historically, the General Assembly does not create boards, councils, and commissions to be housed within the legislature and is atypical of how the General Assembly conducts business. Members of the General Assembly often form legislative task forces, work groups, or public hearings to explore policy issues facing the legislature. While the General Assembly has successfully staffed public bodies like this, the required operations of a commission like the Family Law Commission are not conducive to the legislature’s current staffing structure and staffing levels.

More broadly, Delaware’s General Assembly runs on the smallest permanent legislative staff among other states with similar operations. The National Conference of State Legislatures (“NCSL”) released two reports in 2021 explaining full and part-time legislatures and the size of state legislative staff.⁴³ In the NCSL report, *Full- and Part-Time Legislatures*, a color system of green, gray, and gold was used for classification. NCSL placed Delaware in the “gray” category, which is a hybrid category. Hybrid states fall in the middle of “green” legislatures with full-time, well-paid, large staffs, and “gold” legislatures with part-time, lower-paid, smaller staffs. Legislators in hybrid states typically classify themselves as working more than part-time, but in most cases, it is not their sole occupation as they would need an added source of income. States with middle populations tend to be “gray” with “gold” typically more rural and smaller in population. In the NCSL report, *Size of State Legislative Staff*, charts were supplied for different staff types with JLOSC staff referencing the data surrounding permanent staff size as of 2015. For comparison, states classified as “gray” and “gold” in the NCSL *Full- and Part-Time Legislatures* report are included below with their respective permanent staff size per the NCSL report *Size of*

⁴³ NCSL, Full-and Part-Time Legislatures, July 28, 2021, <https://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx> and NCSL, Size of State Legislative Staff, May 18, 2021, <https://www.ncsl.org/research/about-state-legislatures/staff-change-chart-1979-1988-1996-2003-2009.aspx>

State Legislative Staff. In summary, Delaware’s General Assembly has the smallest permanent staff size of “gray” states and the 6th smallest permanent staff size compared to “gold” states.

NCSL Full- and Part-Time Legislatures & Size of State Legislative Staff

Hybrid - Gray States	Permanent Staff 2015	Part-time Gold	Permanent Staff 2015
Alabama	349	Idaho	76
Arizona	521	Kansas	148
Arkansas	435	Maine	171
Colorado	228	Mississippi	140
Connecticut	465	Montana	136
Delaware	79	New Hampshire	129
Florida	1,446	New Mexico	168
Georgia	221	North Dakota	37
Indiana	252	Rhode Island	259
Iowa	167	South Dakota	58
Kentucky	375	Utah	133
Louisiana	743	Vermont	55
Maryland	656	West Virginia	201
Minnesota	568	Wyoming	36
Missouri	403		
Nebraska	229		
Nevada	284		
New Jersey	727		
North Carolina	370		
Oklahoma	224		
Oregon	303		
South Carolina	280		
Tennessee	264		
Texas	2,057		
Virginia	533		
Washington	536		

Lastly, the Family Law Commission statute supplies provisions for the Chair to appoint a Vice Chair and Secretary. In archived meeting minutes and annual reports, the Family Law Commission included a designated Secretary. The role of Secretary was last mentioned in the Family Law Commission’s 2012 annual report before resurfacing in the February 21, 2019 meeting minutes. At this meeting, the Chair explained the Secretary position, and a member volunteered for the position. After Chair appointment, meeting minutes did not mention or include this position designation in the list of Family Law Commission members. Additionally, the Family Law Commission’s discussion on staff coverage occurred two years after the Family Law Commission’s Chair made this designation. Based on these recent staff discussions, it seems the Family Law Commission relies solely on staff support from the General Assembly for meeting minutes and annual reports rather than appointed officers.

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STAFF RECOMMENDATIONS

Recommendation #1, Option 2 – Sunset the Family Law Commission

Review and analysis by JLOSC staff conclude the Family Law Commission has long standing issues with FOIA compliance, does not meet its statutory requirements, does not have the resources to supply meaningful information or policy analysis to the public and stakeholders, cannot supply legal advice, and has seen public participation significantly decline. The Family Law Commission is not meeting a public need.

JLOSC staff recommends **Option 2: Sunset the Family Law Commission with JLOSC sponsoring legislation to implement this recommendation.**

Continue or Terminate (standard JLOSC recommendation):

Option 1: The Family Law Commission shall continue, subject to any further recommendations that JLOSC adopts.

- OR -

Option 2: The Family Law Commission is terminated, and JLOSC will sponsor legislation to implement this recommendation.

Recommendation #2 – Release from Review.

Release the Family Law Commission from review upon enactment of sunset legislation.

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Good Afternoon,

My name is Raetta McCall and I am a member of the Family Law Commission referred to in this presentation as the "Commission".

I want to thank the JLOSC for doing the work of researching the Commission and bringing to the Commission's awareness issues that need attention. There was a genuine public need for the Commission in 1984 and there continues to be. As for meeting the need, I believe a few things need to change in order to do that. The main change has, in my mind, always been and continues to be the need to recreate the statute that formed the Commission; a redesign.

- Judge Jones stated that the Commission could accomplish more under a new design. He added the Report stated that the Commission was created at a time when things were much different in Family Court. He asked if the fact that things have changed in Family Court is a reason why it is thought that the Commission is no longer needed.
- It was pointed out that the JLOSC staff would recommend a legislative caucus instead of continuing the Commission. One issue of the Commission is that the public is not aware of its existence; something that can be overcome. Where does the public hear of caucus meetings and is the public allowed to be a part? Does a legislative caucus have experts such as medical and mental health professionals, practicing Family Court attorneys and other experts? It is unlikely that a legislative caucus would invite lay people to caucus with them. What form of public notice would there be in order that the public know of the existence of the legislative caucus and when their meetings would be held? If it would be the same as public notice for Commission meetings, the public will not be aware that a legislative caucus exists.
- Mr. Bounds, Chair, discussed the Commission with no oversight authority versus a legislative caucus which could become an echo chamber if it does not have sufficient input from the public and other professionals that are on the Family Law Commission. Oversight of the courts by the Commission or the Legislature cannot happen constitutionally.
- Responses to the JLOSC Report follow:

Finding #1

The General Assembly created the Family Law Commission in 1984 after a statewide Family Court was established 13 years prior. The Family Law Commission is not meeting several of its statutory requirements, cannot provide legal advice, no longer takes positions on legislation, and does not have the resources to provide meaningful information to the public. Recent updates to the statute did not successfully address areas identified by the Commission.

- a. There are 4 legislators on the Commission. It was mistakenly believed that those legislators would take the Commission's discussion and resulting opinion on pending legislation back to their respective Senate and House.
- b. The Commission does not have a budget therefore it has no ability to provide meaningful information to the public (i.e., compile and publish research).
- c. The Commission needs a redesign and an updated statute to provide the redesign.
- d. The Annual Public Hearing has always been to hear public concerns and provide a roadmap for the Commission's discussion of possible policy and/or procedural changes within the Family Court system.
- e. Annual reports to the Legislature, as well as meeting minutes, have been difficult. The person in charge of creating the minutes and reports changed as different legislators came and went from the Commission. A Senator on the Commission would have their staff person create minutes. The computer from the last legislative aide was wiped after their departure. The Commission has no knowledge of how much Commission business was on the computer and therefore lost.
- f. The Commission is not aware of who was tasked in the past with updating the website. Presently, James Berryhill has taken on updating the website with meeting agendas, minutes, and meeting notices.

Finding #2

Annual public hearings present issues of privacy, unrealistic expectations, and misunderstandings of the statutory duties and authority of the Family Law Commission, which does not have statutory or regulatory authority over Family Court operations. 2018 meeting minutes reflect the belief that "the Commission's function as a sounding board seems to have passed."

- a. The Commission created a speaker's outline for public hearings (Addendum: example of 2010 outline).

- b. The outline could be altered to state that the issues raised need to be more procedural or policy related.
- c. Rep. Jester's explanation that the intent and purpose of the public hearing was to give people a place to talk about their experiences and the Commission would discuss if any policy could be suggested to the General Assembly or Family Court to improve operations. A simple explanation of this could be given at the beginning of the public hearings. A brochure explaining the Family Law Commission could be created and handed out at the hearing. However, where would the funds for the brochure come from?

Finding #3

The Family Law Commission is inconsistent in its meeting format and historically allowed annual public comments to influence and dictate its annual agenda. For example, public comment topics such as Protection From Abuse ("PFA") and false testimony received multiple meeting presentations, often with the same processes and historical information being provided to the Commission. This information is not adequately compiled or published, therefore, becomes a recurring agenda item with no new insight offered.

- a. It is my opinion that the public hearing is supposed to give the Commission issues to discuss and offer possible policy or procedural changes to the General Assembly or the courts. This was the reason for moving the public hearing to January so the topic issues would be the work of that year's meetings.
- b. I do not know of a "New Member Packet" that would show what the Commission worked on in the past to bring new members up to date with issues. I think this is a good suggestion for the future.
- c. Again, compiling and publishing the information for public consumption would take a budget which the Commission does not have. I believe the Commission felt the Annual Report to the General Assembly was all that was needed; confusion on this matter can be resolved going forward.

Finding #4

Research pertaining to Family Court policy has historically been conducted by Family Court employees or a legislative task force, not the Family Law Commission. In 2006, the Family Law Commission used subcommittees; however, subcommittee meetings were not recorded on the Family Law Commission website or public meeting calendar and meeting minutes from these subcommittees are unavailable. Subcommittee reports stopped appearing in meeting minutes after 2011. Task forces were formed with or without Family Law Commission suggestion with one created based on public testimony at a Joint Finance Committee hearing.

- a. The Commission is made up of legal, medical and mental health professionals, legislators and lay volunteers; there is no staff for research of Family or Supreme Court cases.
- b. Subcommittee meetings should have meeting minutes with findings; agreed. There needs to be someone on the subcommittee tasked with taking and creating minutes to be included on the Commission website and attached to the General Assembly annual report. One subcommittee received researched information supplied by a House legislative aide and legislative fellow. The Commission Secretary should be part of any subcommittee and create a record of each meeting.
- c. Many years ago Family Court provided a liaison to the Commission that attended all meetings taking back information to the Chief Judge. Why that ended, I have yet to discover. I believe it should have continued.
- d. A formal report of the Hartford, Ct. trip taken to study their Family Court procedures was not included with Annual Report. Again, with no particular support person dedicated to the Commission, this oversight occurred. Senator Ennis provided a copy of his report to me and it can now be handled appropriately.
- e. Having taken part in the Blue Ribbon Task Force to study the “open court” issue, it was attorneys who did not want the court open not litigants. The task force did the study and a bill was introduced. The task force obligation was ended at that point.

**Finding #5 **

This review observed severe FOIA compliance issues with agendas and meeting minutes. JLOSC staff saw an extensive history of noncompliance with FOIA.

- a. 7-day notice of Commission meetings, meeting agendas, meeting minutes, etc. Over the years different legislators on the Commission utilized their aides to assist the Commission with notices, minutes, etc. The Commission relied on this person to know what needed to be done following FOIA rules. I do not believe a “formal” secretary was in place most of the time. With the presence of a Commission website, it has been difficult to have all the required documentation on the website due to the changes in legislative aides. Presently, I have taken over the role of Commission Secretary due to the last legislative aide leaving. Until recently, I had no idea who to go to for uploading the necessary documents to the website.

- b. It was recently stated at a Commission meeting that “public notice” requirements is to have the meeting listed on bulletin boards in Legislative Hall, the Commission’s website and the state’s public calendar. I believe this is not sufficient for the public to be involved. The notices should be in Family Court locations in all three counties and a link on the Family Court websites. Discussions should be had on even more ways to inform the public of the meetings since most of the public does not go to Legislative Hall nor know to look at the state calendar. Since most of the public does not know the Commission exists, they would not know to look for a website.
- c. Executive sessions of the Commission had been held as planning meetings for the upcoming year. These planning meetings ceased as the Commission became aware that they were not to hold any meetings without the public present. No planning meetings have been held for this reason.
- d. Absence of meeting minutes is again addressed as the issue of no formal staff or secretary for the Commission.

Finding #6

Since 2016, the average attendance rate by Commission members is 64% with only 56% of meetings having a quorum of members present. This calculation is based on 27 meetings due to minutes missing for 8 meetings. Currently, there are 2 vacancies.

- a. Lack of quorum could be due to legislators, medical and legal commissioners having other meetings that happen suddenly that would take precedence.
- b. Vacancies on the Commission are filled by the General Assembly. It has been difficult acquiring a medical professional; that role has been recently filled.

Finding #7

Public outreach survey received a low response rate and all respondents had limited experience and knowledge of the Family Law Commission.

- a. The public outreach survey shows what has been responded to in several of the JLOSC findings. The public is not aware of the existence of the Commission; this needs to be rectified. However, it is curious who the outreach survey went to that the people who answered “were not aware” or “not familiar” with the Commission. How were the survey participants selected?

- b. If the JLOSC staff held 2 virtual public comment sessions in October 2021, how were the sessions advertised? And, was the Commission made aware of the sessions so they could observe and learn?
- c. Of those respondents that answered the survey, 4 out of 5 stated the commission was very or somewhat valuable.

Finding #8

Lack of consistent staffing for the Family Law Commission is an issue raised in the self-report; however, it did not surface as discussion topic in Family Law Commission minutes until 2021. Delaware’s General Assembly has limited permanent staff. The Family Law Commission statute does not define a source for staff support but supplies authority for the Chair to appoint a Vice Chair and Secretary. The Family Law Commission appointed a secretary in 2019 following a 7-year vacancy, but still requires staff support for meeting minutes and annual reports.

- a. Most years the Commission relied on various Senate legislative aides that changed as Senators rotated on and off the Commission. Thus, there has not been a consistent staff person. This has affected the Commission in several ways; meeting minutes, annual reports, public notification of meetings, etc.
- b. Although out of the ordinary for the General Assembly, the Commission was established by statute in 1984. The Commission meets in Legislative Hall because their previous meeting location was too small to accommodate the public that was attending their monthly meetings. There was standing room only and, then Rep. Pam Maier, made a motion to move the meetings to Legislative Hall.
- c. The Commission requested a staff person for the Commission and believes the JLOSC review and recommendation for sunset is the result of the request.

JLOSC Staff Recommendations

The JLOSC staff recommends to sunset the Commission. Instead of this recommendation, it is suggested by the Commission to “redesign” the Commission.

In review of the findings, there is work that can be done to ensure the Commission overcomes the criticism of the Report.

The Commission also needs to create and implement a plan for public awareness.

The Commission will hold subcommittee meetings, with public notice, in an effort to correct issues brought forth in the JLOSC staff report.

FAMILY LAW COMMISSION SPEAKER'S OUTLINE FOR 1/12/10 HEARING

Name: Raetta McCall, Delaware Court Reform Initiative

WHAT is the issue?

Litigants, either with or without legal representation, need to present a 5 minute statement to the judge. If a litigant has an attorney, they are not allowed to speak except through their attorney and, believe it or not, many times the attorney will not state what the litigant wants. If one is a Pro Se Litigant, they are in a high-anxiety situation and may not be able to remember the pertinent points they want to get across.

HOW resolve the issue?

As a Pro Se Litigant, you are either the petitioner or respondent and you are not able to ask yourself a question in the role of attorney. Provide all litigants the time to make a 5 minute statement (e.g. issues, how to resolve, and any other pertinent information the litigant feels the judge should know).

WHY/BENEFIT:

Litigant would have the chance to speak and make their opinions known. Litigants live their situation 24/7 and know what they feel the judge needs to know to make an informed decision. Many times an attorney will not bring up certain subjects to the judge. These subjects may be pertinent to the case and could possibly make the outcome more positive for either or both parties. The judge would get information litigants feel important and the litigants would know they had part in the decision, unlike the present system.

Appendix A – Family Law statute

TITLE 13

Domestic Relations

CHAPTER 20. Family Law Commission

§ 2001. Creation.

The General Assembly hereby creates a permanent Family Law Commission.

§ 2002. Composition.

The Commission shall consist of 16 citizens of the State and shall have at least 2 members from each county. At least 2 of the members of the Commission shall be attorneys licensed to practice law in Delaware; at least 1 member shall be a judge of the Family Court of the State; 2 members shall be members of the House of Representatives, with 1 from each of the 2 major political parties represented in the House; 2 members shall be members of the Senate, with 1 from each of the 2 major political parties represented in the Senate; at least 2 members shall be practicing or retired licensed health-care professionals with expertise in pediatrics or family medicine; and at least 1 member shall be a practicing mental health professional licensed in this State specializing in the psychology of children when appointed.

§ 2003. Appointment; terms of office.

The members of the Commission shall be appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives who shall designate 1 member of the Commission to serve as Chairperson during his or her term of office.

(1) *Initial members.* — Nine members of the Commission shall be appointed to take office on September 1, 1984. Three of them (including the Chairperson) shall be appointed for a term of 3 years; 3 of them for a term of 2 years and 3 of them for a term of 1 year.

(2) *Additional members.* — Two additional members shall be appointed to take office September 1, 1985, in order to increase the membership of the Commission from the initial 9 members to 11 members. One of the additional members shall be appointed for a term of 2 years and the other shall be appointed for a term of 3 years.

(3) *Subsequent members.* — After the initial appointment of members and the additional members of the Commission, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall appoint sufficient new members of the Commission each year for a 3-year term so that the membership totals 16 citizens. They shall also jointly appoint members of the Commission to complete the remaining portion of the term of a member who has resigned or has been removed from the Commission.

(4) *Term of office.* — Initial members of the Commission shall serve for the term of office designated in their appointment. Subsequent members shall serve for a term of 3 years. Members of the Commission may be removed by a majority vote in the House and Senate with or without cause.

(5) *Officers.* — The Chairperson of the Commission shall appoint a Vice-Chairperson and Secretary of the Commission and such other officers of the Commission as the Chairperson deems necessary or desirable to assist the Commission in performing its duties, all to serve at the pleasure of the Chairperson.

(6) *Compensation.* — No member shall receive any compensation for his or her service on the Commission, but members may be reimbursed from time to time for their expenses in connection with the Commission's activities.

§ 2004. Purpose; powers; duties.

The Commission shall study and evaluate the domestic relations laws of the State and the rules and procedures of the Family Court, review legislation affecting domestic relations law introduced in the General Assembly and Family Court rules and procedures, disseminate information about family law to the citizens of Delaware and engage in such other activities as it may deem appropriate in connection with the study, analysis, review and dissemination of information concerning family law. In furtherance and not in limitation of the foregoing, the Commission may:

- (1) Conduct public hearings;
- (2) Invite written comments on family law from members of the public;
- (3) Review and comment upon legislation affecting family law introduced in the General Assembly at the request of any member of the General Assembly or on its own initiative; and
- (4) Publish and disseminate information concerning family law to the public.

The Commission shall meet at least 4 times each year and shall report to the General Assembly its activities and recommendations at least once every year on or before March 15. The Commission shall not engage in the practice of law, shall not give legal advice of any kind to individuals about their rights or responsibilities (other than publishing and disseminating comments about existing or proposed legislation or Family Court rules and procedures) and shall not intervene, directly or indirectly, in any case pending in any court.

Appendix B – Family Law Commission Public Input Guideline Form

FAMILY LAW COMMISSION -- PUBLIC INPUT GUIDELINES

In order to better understand the public input and be able to focus on the key concerns, we would appreciate all speakers using the following process:

WHAT

What is the Issue? In one sentence, state the issue.

HOW

How would you recommend we resolve the issue?

What changes need to take place?

WHY

Why is it important for the issue to be resolved?

Benefit of resolving the issue...

i.e.

WHAT is the issue?

*It is sometimes difficult for the FLC to determine the key issues from the public comments

HOW resolve the issue?

*Create a process for speakers to use

*Utilize a resource to help speakers understand the process and focus on main issues

WHY/BENEFIT

*Help FLC to better understand and respond to public concerns.

*Identify themes among speakers so FLC meetings focus on those themes

THE DELAWARE COMMISSION ON FAMILY LAW

The Delaware Commission on Family Law, more frequently referred to as the Delaware Family Law Commission, is a bi-partisan commission created to hear the concerns of Delawareans regarding issues of the Family Court. The Commission meets once a month, at least 4 times a calendar year, while the Legislature is in session. All information on the meetings, topics and agendas can be found online at

<http://flc.delaware.gov>

All meetings are open to the public and your attendance is welcome!



THE DELAWARE COMMISSION ON FAMILY LAW

Mailing Address:
The Delaware Commission on Family Law
Attn: Dick Carter
411 Legislative Avenue
Dover, DE 19901

THE DELAWARE COMMISSION ON FAMILY LAW



Contact Information:

Dick Carter
FLC Staff
302-744-4155
dick.carter@state.de.us

What the Family Law Commission can do

The Delaware Commission on Family Law, more frequently called the Delaware Family Law Commission, was established in 1984 to hear the concerns of citizens of the State regarding matters of Family Court.

The Family Law Commission is made up of 16 members:

2 members of each party from the Senate and House of Representatives

2 domestic relations attorneys licensed to practice law in Delaware

1 Judge from Family Court

1 pediatrician licensed to practice in the State of Delaware

1 family practice physician licensed to practice in the State of Delaware

1 child psychologist licensed in the State of Delaware

6 members of the public, 2 from each county

The purpose of the FLC:

The Commission studies and evaluates Delaware domestic relations law and the Delaware Family Court's rules of procedure and Court policy. The Commission may review existing legislation and suggest new legislation affecting domestic relations laws.

What we can and cannot do:

The Family Law Commission can conduct a public hearing and subsequent monthly meetings while the Legislature is in session, with at least 4 meetings taking place during that calendar year. These meetings take place in Legislative Hall in Dover.

The Family Law Commission can review, comment and create legislation affecting family law.

The Family Law Commission is a communication link between the public and agencies pertaining to Family Law, including Family Court. They can invite speakers from the court/agencies to address the issues that are heard at the public hearing each year.

These meetings will be open to the public and written comments are invited.



The Commission shall not engage in the practice of law, give legal advice of any kind or intervene directly or indirectly with any case pending in any court.

For more information regarding the Family Law Commission, please visit our website at <http://flc.delaware.gov>.

Important Contacts:

NCC Family Court

(302) 255-0300

Kent County Family Court

(302) 672-1000

Sussex County Family Court

(302) 855-7400

Newly Updated Family Court Website:

<http://courts.delaware.gov/family/>

The Delaware Commission on Family Law

The Delaware Family Law Commission
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