

Special Committee on the Family Division of the Circuit Court Opening remarks by the Chairman, May 2, 2023

Good morning.

For the record, I am Representative Mark Pearson, Chairman of the Special Committee on the Family Division of the Circuit Court and it is Tuesday morning, May 2, 2023.

God willing we will be meeting on May 9, 16, and 23 at 9:30. We will be taking the day after Memorial Day off. We may meet one or more of the first three Tuesdays in June. We are investigating the possibility of a field trip to spend a morning in attendance at Family Court somewhere in New Hampshire.

On several of the days this Spring we will be hearing presentations from the various stakeholder groups mentioned in the Memorandum of April 10, 2023, from the Speaker's Office establishing this Special Committee.

Today we will be hearing from the DCYF and from the Guardians ad Litem.

Next week we hope to hear from New Hampshire Legal Assistance, particularly from their Domestic Violence Advocacy Project Director and from the New Hampshire Bar Association Family Law Section and the Bar Association Pro Bono Governing Board.

We hope to schedule presentations from Child Support Services and individuals from OPLC, the Office of Professional Licensure and Certification. As needed and at the call of the chair we will be asking for specific information from the Judicial Branch.

I want to spend some time talking about a committee that operated eleven years ago and at the end give you reasons why I am bringing this up. There are two documents I wish to cite, documents that are part of the public record which you may access:

First, the House Journal of March 21, 2012. It contains reports from the Committee for Redress of Grievances. Each report summarized individual petitions with findings of either Grievance Founded, Grievance Founded with Recommendations, or Grievance Unfounded.

Second, a Special Report to the Speaker of the House of Representatives, the Honorable William L. O'Brien, dated November 19, 2012, by Representative Paul Ingbretson, Chair. It provides an extensive overview of how the Committee conducted its business, the procedures required of those submitting petitions to the committee, forms the committee used in making reports on each grievance and an interpretive ruling, that is to say, guidance, from the Legislative Ethics Committee.

I mention these two documents because many people today allude to that 2012 committee with various degrees of understanding as to what it was and what it did.

There were 28 petitions initially, with one withdrawn by the petitioner.

To quote from the November 19, 2012 committee report, "The majority of the petitions claimed violations of due process relating to the Judicial Branch Family Division as well as guardians ad litem in divorce cases. Other petitions involved alleged abuses of parental rights, best interests of the child and other abuses of discretion or power by decision-makers. The petitions sought relief against judges, marital masters, guardians ad litem, and agency staff disproportionately from the Department of Health and Human Services."

From the Concord Monitor article last modified on September 29, 2012, comes this statement: "The committee determined 20 of the 27 complaints were legitimate and pronounced seven unfounded."

If you read through the various documents coming from this process eleven years ago you will discover that reviews were done of court cases in some great detail. While the committee had no authority to overturn court decisions because of the New Hampshire Supreme Court ruling *Merrill v. Sherburne* (1818), nevertheless, the committee made recommendations against certain judges and marital masters being mentioned by name, and it made specific recommendations for legislation.

First, I mention all of this to steer people invoking the memory of this Committee for Redress of Grievances to inform themselves what this committee actually was and did.

And secondly, to let anyone coming before us to know in no uncertain terms, we are not round two of that committee. We will not be reviewing court cases but looking only at narrow slices of a number of court cases, nor will we be making specific recommendations against any individual.

Those of you wishing to testify, please fill out a pink card. While you have only to write your name, I suggest, but not require that you also put on the card your telephone number and email address written very legibly, so that, later, as the committee starts looking at specific categories of alleged difficulties in the Family Court system, should we need more information from you, we can find you.

It has been strongly suggested to me that I read the Notice and Disclaimer statement before every committee hearing. Copies are available for you. Here goes:

Special Committee on the Family Division of the Circuit Court

Notice and Disclaimer

The *Special Committee on the Family Division of the Circuit Court* was formed to investigate allegations of irregularities, including failure to follow or enforce statutes, unwarranted waiver of or failure to follow court rules, delay in rendering decisions, denial of due process, and other procedural issues.

The committee will conduct hearings relative to the process of the family division of the Circuit Court and may make recommendations for future legislation.

The purpose of the committee is to discover areas where changes in procedures or changes in law regarding the Family Division of the Circuit Court might be made. The purpose of this special committee is not to re-try the cases of citizens who disagree with the outcome of litigation.

Members of the public will be given the opportunity to testify and present information to the committee. Because of the number of people who may wish to testify, there may be a time limit imposed on each person testifying, which is permissible under House Rule 100.

Appropriate subject matter for testifying will be limited to specific instances of where there seemed to be irregularities in process, procedure, or adherence to rules and statutes.

Those testifying about subject matter related to a court case, or who submit documentation related to a court case should know that both will be made part of the public record.

Therefore, subject matter that is either confidential or may be under seal should not be discussed or submitted to the committee, as disclosure of such matters would be a violation of statute or a court order.

The committee reserves the right to not accept written or oral testimony or materials which would, in its judgment, violate the foregoing.

With that Notice and Disclaimer in mind, three things, please, should you wish to testify before us.

First, this statement was a joint effort of myself, the Speaker's office and the House Legal Council. It passes legal muster.

Second, of the things you may present to us orally, electronically, or in written form, we as a committee do not know, what might be confidential or under seal. How could we know? Therefore, it is entirely up to those bringing us testimony to filter out those items, lest you find yourself in difficulty. You, the one wishing to provide testimony, are solely responsible for not bringing these matters forward.

Additionally under this point, there may be some items, simple facts or broader anecdotes, that are not confidential or under the seal, that you nevertheless want to present only to us here. However, should they be brought forward in any form to us, and they are accepted into the record, they become a matter of public record. If you don't want the public to have access to the record of that item, don't create the record.

And, please, don't do or say or write anything that may be hurtful or embarrassing to your children.

Third, this is how your testimony shall be presented. Provide:

1. Your name.
2. The date, time and courtroom where the alleged error by the court took place.
3. The alleged error. Be extremely brief. Name it in one short phrase such as, "I believe there was a violation of the rules of evidence," or, "the judge let the other party introduce motion after motion after motion."
4. Describe briefly why you thought this was a violation of court rules.
5. If you or your lawyer objected at that time, what was the judge's ruling and why.

You will have no more than five minutes to present your testimony if done in a hearing before us. If you wish to give us written or electronic testimony it must be as brief as someone reading it aloud. If you cannot do this in five minutes or under, your testimony needs to be revised.

If your testimony does not follow this format, you may be cut off from speaking further. If written or electronic, your testimony will not be accepted. Remember the last sentence of the Notice and Disclaimer: "The committee reserves the right to not accept written or oral testimony or materials which would, in its judgment, violate the foregoing." The reason for this is, once again, that we are not following the format of the Committee for Redress of Grievances. We are going about our business in a different way so the manner in which testimony comes to us must serve that purpose. Testimony in a different form will not be useful, so therefore it will not be accepted.

--The Hon. Mark A. Pearson, Chairman

