

MELANIE L. GEORGE
STATE REPRESENTATIVE
Fifth District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

COMMITTEES
Judiciary, Chair
Appropriations
Joint Finance
Public Safety & Homeland
Security
Veterans Affairs

Judiciary Committee
Meeting Minutes
June 2, 2010

Chairwoman George called the meeting to order at 1:03pm. Members present included Representatives J. Johnson, Lee, Wilson, Bennett, D. P. Williams, Carson, Kovach and Mitchell. For a list of guests, please see attached.

After calling the meeting to order, Chairwoman George brought up **HB 433 AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO CHOICE OF LAW AND CHOICE OF FORUM**, and recognized Ben Strauss, the President of the Delaware State Bar Association. Mr. Strauss explained that this bill would provide an alternative dispute resolution mechanism for the Superior Court similar to what is already in place in the Chancery Court of Delaware. Mr. Strauss explained that this bill is similar to the the Chancery Court legislation passed previously except that there is a \$100,000 threshold in this bill instead of a \$1,000,000 in the previous legislation.

Chairwoman George offered her sincere appreciation for the work of the Delaware Bar Association and inquired about the effects that legislation would have on the Delaware Business Court. Mr. Strauss replied that the Superior Court will have the discretion to decide where disputes are handled. Chairwoman George asked if it would be necessary to specify arbitration within the business court and mentioned that this would be important to find out.

Rep. Bennett motioned to release the bill from committee; Rep. Lee seconded the motion. The bill was released from committee on a vote of 6-0-0.

Next, Chairwoman George brought up **HB 423 AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO DOMESTIC RELATIONS AND THIRD PARTY VISITATION**, and recognized Tania Culley of the Delaware Office of Child Advocate. Ms. Culley explained that this legislation addresses an unconstitutional statute and creates equality between single- and two-parent households. Chairwoman George questioned how the previous legislation applied. Ms. Culley explained there was some discrepancy on how it applied to single-parent households.

Rep. Carson motioned to release the bill from committee; Rep. Bennett seconded the motion. The bill was released from committee on a vote of 6-0-0.

Next, Chairwoman George brought up **SB 113 AN ACT TO AMEND TITLES 10, 29, AND 31 OF THE DELAWARE CODE RELATING TO EXTENDING THE JURISDICTION OF THE FAMILY COURT FOR ABUSED, DEPENDENT AND NEGLECTED CHILDREN**, and recognized Tania Culley. Ms. Culley explained that this legislation extended jurisdiction of Family Court over childcare and foster care. In addition,

this legislation enables children to have an additional enforcement mechanism to deal with problems with their provided services. Chairwoman George questioned if the legislation was supported by all involved parties. Ms. Culley explained that it was supported by all parties involved except the Family Law section of the Delaware Bar Association, which had no stance.

Rep. Carson motioned to release the bill from committee; Rep. Bennett seconded the motion. The bill was released from committee on a vote of 6-0-0.

Next, Chairwoman George brought up **HB 410 AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO DIVORCE AND ANNULMENT**, and recognized Gretchen Knight of the Delaware Bar Association Family Law section. Ms. Knight explained that this bill allows for estate planning changes to occur during divorce actions. Ms. Knight explained that this bill would allow litigants to have their wishes known during divorce action should they die. In addition, Ms. Knight cited the fact that this bill would allow parties to a divorce action to sit on a level playing field.

Chairwoman George asked if the Family Law and Estate Trust Section of the Delaware Bar Association supported this legislation. Ms. Knight stated that they did. Rep. Johnson and Ms. Knight engaged in discussion on how this bill affects an individual's last will and testament. Chairwoman George asked if Family Court decisions outweigh what is written in the will, to which Ms. Knight replied that they did.

Rep. Wilson motioned to release the bill from committee; Rep. Kovach seconded the motion. The bill was released from committee on a vote of 8-0-0.

Next, Chairwoman George brought up **HB 428 AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS, OFFENSES CONCERNING CERTAIN PERSONS AND CREATION OF A CIVIL CAUSE OF ACTION FOR INJURIES CAUSED BY CERTAIN PERSONS**, and recognized Rep. Barbieri, the bill's sponsor. Rep. Barbieri explained that this bill would raise the fine for serving alcohol to minors and allows for civil liability if a minor does harm to others.

Chairwoman George then opened the floor to comments and questions from Representatives. Rep. J. Johnson asked about the difference between this legislation and past legislation. Rep. Barbieri explained that this is a significantly different piece of legislation as it deals with social hosting. Rep. Lee then asked about how this legislation would apply to use of false identification. Jack Cordrey, the Delaware Commissioner of Alcohol, explained that this bill would most likely not apply in cases of false identification provided by minors. Chairwoman George stated that this issue would most likely have to go to court to be decided. Rep. Bennett then asked what entities would be affected by this legislation. Mr. Cordrey explained that at this time all entities would be affected, including Nascar Races. Rep. Barbieri, Rep. Kovach, Chairwoman George and Mr. Cordrey then discussed who would be affected by legislation and how the civil liability would affect them. Rep. Kovach and Chairwoman George clarified that civil liability would result in a fact intensive and expensive discovery process for defendants.

Rep. Mitchell then commented on the definition of intoxication as it pertains to the legislation. Rep. Carson then stated that businesses could be affected enormously due to a server's simple mistake. Rep. Carson also expressed his disapproval with the definition of minors as it pertains to the legislation. Rep. Barbieri explained that the intent of the legislation is to affect social hosting and that he would amend the legislation to no longer affect businesses. Chairwoman George stated that an amendment would be a good start, but numerous concerns

still exist within the bill due to the lack of clarity in the language. Rep. Kovach also expressed his concern for the lack of clarity in the language of the legislation.

Rep. Barbieri explained that the intent of the legislation is to impose a significant punishment on those who commit the offense denoted in the legislation and the language of the bill states that. Rep. D.P. Williams expressed concern at the overregulation of citizen's private lives.

Chairwoman George then opened the floor to comments and questions from the public. Chairwoman George recognized Carrie Leishman of the Delaware Restaurant Association, who expressed her concern for the legislation's affect upon the restaurant community. Chairwoman George then recognized Ryan German of Caffè Gelato Restaurant and the Vice Chair of the Delaware Restaurant Association, who echoed Ms. Leishman's concerns and suggested exempting restaurants. Chairwoman George then recognized Prathmesh Patel of the Delaware Asian American Business Association, who expressed his concern for rising insurance costs. Chairwoman George then recognized Joe Fitzgerald of the New Castle County Chamber of Commerce, who expressed his concern for the widespread effects that could result from the legislation. Chairwoman George then recognized Craig Eliassen of the Delaware Trial Lawyers Association, who expressed his support for the bill and the extension of accountability created by it. Chairwoman George then recognized Bill Sullivan of the Delaware Hotel and Lodging Association, who explained how highly trained staff are and suggested further revisions of the legislation.

Chairwoman George then recognized Beverly Sisson of Highway One, who expressed her concern for the rising insurance premiums that would result from this legislation, especially during the current recession. Chairwoman George then recognized Lorie Tudor of the Delaware Prevention Network, who stated that resources could be more efficiently spent with preventative methods for minors. Chairwoman George then recognized Roberta Gealt of the University of Delaware Center for Drug and Alcohol Studies, who supported the legislation recognizing how large a problem drinking is for high school students.

Rep. D.P. Williams suggested changing the laws already dealing with the delinquency of a minor instead of putting new laws on the books. Rep. Barbieri expressed his thanks for the suggestions and comments and asked for the bill to be tabled until further changes can be made. Chairwoman George stated her intent to place the bill back on the Judiciary Committee agenda once necessary amendments have been made.

The bill was respectfully tabled by the committee.

Chairwoman George adjourned the committee meeting at 2:07pm.

Respectfully Submitted,

Christopher Lang