

DICTION.LIVE PODCAST
December 11, 2023
GUEST: Senator Manka Dhingra

Chris Fox

Welcome to [Dictum.Live](#), a podcast feature of [Catalyst Publications](#) and the [Washington Family Law Reporter](#).

My name is Chris Fox, and I am your host. On this podcast we discuss law related topics with a focus on Washington State.

With me today is [Manka Dhingra](#) and [Jackie Jeske](#).

Manka is a State Senator representing Washington's 45th Legislative District. She is an attorney with 23 years of varied experience in the criminal justice system, a community leader, and an anti-domestic violence advocate. Senator Dhingra is the current chair of the [Senate Law and Justice Committee](#).

Jackie Jeske is an attorney providing family law mediation and arbitration services. Her extensive legal experience includes serving with the East King County Public Defender Office and the King County Prosecuting Attorney's Office, and as a King County Superior Court Commissioner. Jackie, like me, is a member of the [Washington State Bar Association Family Law Executive Committee, otherwise known as FLEC](#).

Welcome to you both.

Manka Dhingra

Thank you so much for having me. It is such a pleasure for me to join you in having this conversation about the legislature and about family law.

Chris Fox

Senator, you were a principal sponsor of [SB 5205](#) last year. Legislative records indicate it was filed on January 6, passed through various committees, executive action was taken, and then it was X Filed on March 10th. Can you tell us about the bill, how it came about and its history?

Manka Dhingra

Absolutely I'd be delighted to. I was contacted by the [Superior Court Judges Association](#). We talk about the priorities, things that are top in mind for them, and what are they interested in rewriting. The concern the Association had is that some of our statutes are very challenging for lay persons to read or figure out, how to navigate family law issues, specifically parenting plans and the parent-child relationship. The Association wanted to simplify and update that statute. I prime sponsored and dropped the bill.

This is how the legislative session works. You hear from all the stakeholders and see how we can move forward. As this bill was moving forward it became very clear that there were those in the domestic violence sexual assault survivor community who had concerns in making sure that we were treating our survivors in a way that the

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system could not be abused by the abuser. So, it became more complicated, and we needed to spend more time making sure we had more of the stakeholders at the table to see how we can move forward. We decided to “not pass” the bill last session and take time from March to the present to get the different stakeholders to work together and see how we can come up with a draft where there was more consensus.

Tension is always going to be the case when you're talking about the law where discretion lies. There's a lot that has happened in the last few decades in the realization of domestic violence, the realization of power control issues, how they manifest themselves in the legal process and how they manifest themselves in parenting plans. We really do want to make sure that everyone is well versed in power control issues and how they show up in this arena.

Jackie Jeske

The Senator is speaking to such an important part of the legislative process. This is a great example of a bill where a great deal of work went into the legislation from a larger than usual number of constituent groups. [RCW 26.09.191](#) is the statute that most of us in the family law arena understand is a statute dealing with risks and limitations for children and families.

The Family Law Section of the Bar Association worked very closely and shared concerns early on with the Superior Court Judges Association and with other stakeholders as mentioned by Senator Dhingra and we also had a representative from FLEC on the work group during last year's legislative session. The result of that conversation, I believe, is that the bill is significantly improved from the stakeholder input and the participation level. It recognizes some important changes that acknowledge the reality on the ground and in our courtrooms that families are not a one size fits all. They sometimes have challenges that are complex and judicial officers need discretion to assure that the children's best interests are fully addressed. What I remember from last legislative session was that the conversation started with more of a technical rewrite on the bill to make it more understandable to ordinary people in the courtroom. As that conversation developed it was clear that there were some substantive changes that people believed would result in better outcomes for families and complex cases, particularly cases where there's more than one parent that poses concerns to the court.

Chris Fox

Senator, you and Jackie have identified or referenced stakeholders. You included the Superior Court Judges Association and FLEC. Are there additional stakeholders involved in the conversation and the discussion at this point?

Manka Dhingra

Yes, there are a lot of stakeholders that are part of this process. There is different stakeholder involvement at different points in time.

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I'll just say from the interim, which means after the session ended, we wanted to improve the bill. The stakeholders that we included are the ones who had the issues that were brought up that were the largest ones to deal with, so they were all sitting around and having that conversation.

The [Sexual Violence Law Center](#) is a part of it. We have attorneys who do direct work. We had our legal aid individuals there. We have people who do appellate work that are part of this in helping develop what the next version would look like. The stakeholder group is doing a lot of the technical rewrite and making sure the wording is correct.

There is a different larger stakeholder group that is going to be involved and that is frankly what happens anytime you have a hearing on the bill. You may see fathers' rights groups that will come in with their concerns or maybe accolades about the bill. There may be individuals who will chime in on the bill because of the impact it had on their lives. When the session starts that really opens up for everyone to comment on the version of the bill when we're trying to do the drafting to have a copy that is ready to share. So, at different points in time, you have different people who are working on the bill. But once the bill drops and becomes public then everyone who's interested in this area can weigh in and provide feedback.

Chris Fox

Senator, do you anticipate this will be a pre-filed bill or will you be dropping the bill during the regular session?

Manka Dhingra

Yes, thank you for that question because we forget that not everyone is familiar with the legislative session. In Washington, we are a two year cycle which means that in year one we have a longer session and in year two we have a shorter session. Come January 2024, we are at the 60-day shorter session and what that means is we're just compressing a lot of work in a shorter period. So frankly, if this bill is not filed for consideration by the first or second week of January it's not going to get a hearing. The hope really is that it will be filed in the next few weeks. We will be circulating a draft again prior to officially filing it so people have time to digest it. But it will be available by the end of the year or, worst case scenario, the first week in January.

Chris Fox

Regarding pre-filed bills, I was looking at the list of them and they're quite extensive, but I didn't see any family law bills that are pre-filed. Are you aware of any at this point?

Manka Dhingra

I am not aware of any now. No one has shared any with me. But even though I'm Chair of the Law & Justice Committee, I get surprised all the time. We do look at it to

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make sure we the bills that are prefiled every day so that we can be prepared for it. So far, I haven't heard anything. We tend to sometimes on a semi-regular basis have bills around child support and we're trying to really make sure we're improving that process. But other than potentially something around child support payments and pass-throughs, I'm not aware of anything else that will be coming.

Chris Fox

The [2023 Washington State Child Support Worksheet Group](#) recently issued a final report, so perhaps child support will be the subject of a bill next year.

Jackie Jeske

Senator, I have a question. Having served on three or four legislative committees over the course of my career, whether it was as a public defender or a prosecutor, or having been on the Superior Court Judges Association, I've wondered as a legislator in a unique state like Washington where you have one short legislative session and one longer legislative session, whether it is frustrating to you? Do you feel like a lot less substantive drafting work gets done during those short sessions? I often find that the best family law bills we see are often those that are worked on during the break between sessions or with stakeholder groups like this because they're able to do such thoughtful work. I think that the short session makes it much harder to make what can be good changes to proposed legislation. How do you see that as a legislator?

Manka Dhingra

It's really interesting you say that because I do think of the big session as the one where you do a lot of big bills, a lot of big policy. But I've also found many times you have these great bills but right towards the end people come up with creative solutions and there isn't time to pass them. So, I really think of our shorter session as that place where those aha moments are yes, this is another great idea.

You can take that nine months or seven months to work on that unfinished work from the first session and then have it go for the short session. So, this bill is that perfect example, right? We had a great starting point last session and then realized we can improve it greatly. If we just kind of slowed it down a little bit to take this interim to get a much better version, we'll be in a better position to pass it.

We see a lot of that happening with big bills where maybe you need another few months to work on it. You also have the short session which is important for bills that you pass. While we all think we're going to be perfect the first time around, that is indeed not the case and so you basically have trailer bills. So maybe those are drafting errors or maybe there's a cross reference that was missed or people. There were unintended consequences that people hadn't thought of and so this short session is a great way to make sure you're finessing all the work from the first session. And during the second session there are new things that pop up all the time or an issue that rises to the top. So, it gives us that opportunity to really make sure we're doing that work. The Supreme Court keeps us busy if they have decisions

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where the legislature had a different intent so we're going to help clarify it. We have other attorneys come in and say that something needs to be tweaked to accommodate certain court rulings. This is a good session for us to do a lot of that cleanup work. And, of course, the budget is an important component of it and making sure we are passing a supplemental budget to keep up with the needs of our community.

Chris Fox

Senator. If we can go back to SB 5205, what are the principal issues as it's being drafted to be dropped?

Manka Dhingra

I think a lot of the time when you're dealing with legal issues like this, judicial discretion where it's applied, in what manner it's applied becomes a focal point. And I'll tell you many times that depends a lot on the training and the background of the judges and this is where I mentioned awareness of domestic violence issues, power control issues. Awareness of marital rape, date rape and how that plays into potentially raising children together. Looking at the intersection of mental health, substance use, disorder and how that impacts parenting plans and how basically as a State the responsibility is making sure our children are healthy and provided for. So, I think that needle always wants to be moved based on who the stakeholders are. I think traditionally the judges always want more discretion. And this is where the legislator comes in to figure out at what point in time is that discretion, whether it'll be mandated and are we going to be requiring written findings.

That's where a lot of the thorny questions come in. I think we will have a bill that has some consensus on how we're going to be moving forward. I absolutely think another component of this will be the continuing work. We really must look at the intersectionality of so many of these different issues, how they even interplay with guardianship. I fully assume we're going to form a task force as part of this bill to make sure that we are getting ahead of any of these unintended consequences or other areas in which we can clarify and update the statute. I think those are where the tensions are because when you're dealing with family law issues these are serious issues, especially when there are issues of abuse. Part and parcel of this decision making, I think, is ensuring people are getting the help and the support that they need, and children are growing up in healthy families. I think this is something that will continue to be a multiyear process.

Jackie Jeske

I think it's such an important bill and I know that it's complicated to tackle legislation like this. A lot of work went into this. I know that many of the judges, particularly Judge Helson and Judge Forbes and Commissioner Jenny Laird, and others worked very hard to make this a more navigable statute for ordinary people that they see in their courtrooms. Now this session, as stakeholders address some substantive areas that have proven over time to be barriers to justice in the real world for

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families, it's natural that there's tension among the voices. Judges see that steady stream of cases, maybe where they see multiple parents with limitations that impact children. Because they see so many of those cases, they can see the pattern perhaps develop earlier than individual attorneys. We've had a lot of new judicial officers appointed to the bench in the last decade. I am anxious about the level of experience on the bench and the amount of discretion that they have. I think that the changes that those voices have added have improved the guidance that the bench will have in this next version. In the prior version, there was very little guidance for the court. For example, what to do when more than one parent had a limitation of and how did they deal with that. Discretion around decision making in these other pieces. I think you've really contributed to fleshing out those voices and it's going to be a better statute because of it.

Manka Dhingra

I agree 100%, and I really do want to thank the judges and the stakeholders who have engaged. It's been amazing to see what their experiences have resulted in because when you see these on a regular basis you start seeing those patterns and you start seeing the bigger issue. So, I'm actually very excited for what we're going to do next session with all these very experienced voices at the table.

Chris Fox

Senator, how can members of the Bar Association become involved during the upcoming legislative session?

Manka Dhingra

I love this question. Thank you so much Chris for asking it. It is easy to get involved. For many people who don't have a history of doing so may feel intimidated by it. But it is super easy now. All hearings are hybrid and so you can watch TVW or you can actually sign in whether you support or oppose the bill. You can provide written testimony. You can provide testimony in person. There are time limits; you are restricted to 2 or 3 minutes depending on the topic. But there are lots of those opportunities.

People should know that written comments are read. A few years ago, there was a professor who attended a hearing on Law and Justice and testified and later provided a written comment. He was very specific and wrote down what his idea was. It was simply brilliant, and it went into law.

So if you have these good ideas, we do want to hear from you. It's as simple as sending an email. You're also welcome to come and testify. Because it's hybrid you can do it from the luxury of your car or your office or your home. Please do engage. Please read the bill, watch TVW and send in your thoughts and comments because we are listening.

We want to make sure we get it right. Feel free to always go on the [Legislature website](#). You can track bills by subject areas or by topic areas. You can follow

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committees. We try to make it as user friendly as possible and you can provide your written comments.

Jackie Jeske

FLEC is also going to make it a little easier to help our constituents and our colleagues. I think we have about a thousand members right now in the Family Law Section. We're launching a new website that's going to be going into effect in the next thirty days. That website will have a legislative page where our colleagues, attorneys and the public can find out about family law legislation of interest that's been dropped or that FLEC is working on or is pending. It will link to legislators and to bills so that they can see what the current bill and enactments are and hopefully it will enable them to be able to participate and have more of a voice in that process.

Chris Fox

Senator, I invite you to participate later during the Session in a future podcast to discuss similar topics, especially the progress of SB 5205.

Manka Dhingra

Thank you so much. I would love to do that.

Chris Fox

Do either of you have any final comments?

Manka Dhingra

Thank you for doing this podcast. Thank you, Jackie, for your involvement here. I'm very hopeful that your listeners will hear this and be inspired to engage with the legislative process.

Jackie Jeske

Well, it's one of the great new ways to connect and it is very user friendly. Senator, I'm really pleased on behalf of the Family Law Section that you were able to carve out the time to talk with us today. I know during a session it's impossibly busy for you and more difficult to do that. But it would be good to hear how this bill develops as it proceeds from a technical version to a substantive piece of legislation.

Chris Fox

Thank you. I wish each of you, your family, and your colleagues the best during the upcoming holiday season.

Manka Dhingra

Thank you.