

THE CRISIS IN NEW YORK'S FAMILY COURTS

A Report on the Senate Hearing from the
NYS Senate Committee on Judiciary
NYS Senate Committee on Children & Families



February 2024

CONTENTS

INTRODUCTION	3
EXECUTIVE SUMMARY	5
RECOMMENDATIONS	7
1. “NARROW THE FRONT DOOR”	7
2. PROTECT THE RIGHTS OF LITIGANTS	8
3. FULLY FUND LEGAL SERVICE PROVIDERS	8
4. INVEST IN COURT PERSONNEL, PROGRAMS AND INFRASTRUCTURE	10
5. REFORM FAMILY COURT ADMINISTRATION AND PROCEDURES	11
APPENDIX A: ORAL TESTIMONY	13
APPENDIX B: WRITTEN TESTIMONY	22
ACKNOWLEDGMENTS	35

INTRODUCTION

New York State Family Courts are charged with deciding nearly all legal matters involving children and families, ranging from juvenile delinquency matters to custody battles to child support matters. In Family Courtrooms, child protective services (“CPS”) agencies are some of the most common litigants, filing petitions to have children removed from their parents and placed into foster care, or another process of court-ordered supervision. The overwhelming majority of these cases do not involve allegations of state-defined abuse, but rather allegations of neglect; in either instance, these allegations fall disproportionately on Black and Latino parents, and many cases center on murky issues that are traceable to poverty. For New York’s families, the stakes are desperately high, and the consequences of any mistakes are severe. Despite the supreme importance of these matters, New York’s Family Courts are overburdened and under-resourced, plagued by untenable caseloads, overworked staff, and a legacy of dysfunction. The results have been unacceptable, and require deep re-examination.

On November 1, 2023, the Senate Committee on Judiciary and Senate Committee on Children & Families held a joint oversight hearing on the New York State Family Courts. This hearing was called in response to several prominent reports in recent years documenting substantial problems within the court system, including reports from the Franklin H. Williams Judicial Commission (the “[Williams Commission Report](#)”), the New York State Bar Association (the “[NYSBA Report](#)”), the New York City Bar Association (the “[NYCBA Report](#)”) and the Special Adviser on Equal Justice in the New York State Courts (the “[Johnson Report](#),” authored by former U.S. Secretary for Homeland Security Jeh Johnson). These reports described “a second-class system of justice for people of color in New York State” Family Court, where a “dehumanizing” and “cattle-call” system confronts litigants. Families have faced Kafka-esque dilemmas with life-changing consequences, courts and attorneys have faced unacceptably burdensome caseloads, litigants have faced unnecessary delays, and resources have been unjustifiably withheld. The joint hearing was held in order to confront these problems head-on, hear testimony from all participants in Family Court, and solicit ideas for reform. Chief Judge of the New York Court of Appeals Rowan Wilson was in attendance for much of the hearing.

Because the problems with Family Court are felt most by the families forced to navigate this complex system, the committees heard testimony from impacted families first. The committees also heard from the Office of Court Administration (“OCA”), Family Court judges, experts who

have studied and issued reports on Family Court, government officials, attorneys representing indigent families, bar associations, attorneys representing domestic violence victims, legal defense groups, attorneys for children (“AFCs”), and service providers for *pro se* litigants, among others.



Senators of the Senate Judiciary and Children and Families Committees

EXECUTIVE SUMMARY

This report summarizes the testimony heard at the joint hearing and recommendations from various parties. The hearing included nearly eight hours of testimony, accompanied by hundreds of pages of written testimony.

The summary of testimony is from the following individuals and entities:

- **Parents** - Throughout the joint hearing, the committees heard testimony from parents and families directly involved with Family Court. Parents described unjustified family separation and tragedies that they attributed to the dysfunctions of Family Court, including cases where they were mistreated and disrespected by CPS agents and court officials. They expressed that, in many instances, they had been actively harmed rather than affirmatively helped by Family Court. They further provided firsthand accounts that would appear to confirm the NYSBA Report finding of “systemic racism in the child welfare system in the state of New York.”¹
- **Legal Aid and Legal Assistance** - The testimony from New York Legal Assistance Group, Family Legal Care, Lawyers for Children, family defense organizations, the Children’s Law Center, Legal Aid, the Chief Defenders Association, and others, covered the difficulties facing attorneys who represent children and families in Family Court, including the lack of resources that make it difficult to manage cases adequately, inadequate pay scales that make it difficult to retain staff, shortages of assigned counsel attorneys, a dearth of court interpreters, a lack of adequate court technology, negative financial and emotional impacts on families litigating through unnecessary delays, difficulties facing *pro se* litigants, and harassment they have experienced from court personnel.
- **Government Officials** - The Westchester County Attorney’s Office discussed the difficulties facing indigent litigants and people of color in Family Court, issues of judicial accountability, and the need for updated technology in the courtroom.

¹ “Report and Recommendations on Racial Justice and Child Welfare,” Committee on Families and the Law, New York State Bar Association, 24, <https://nysba.org/app/uploads/2022/03/Committee-on-Families-and-the-Law-April-2022-approved.pdf>.

- **Court Officials** - The testimony from Judge Richard Rivera, recently appointed to the newly-created role of Statewide Coordinating Judge for Family Court Matters, and Judge Anne-Marie Jolly, the New York City Family Court Administrative Judge, demonstrated the importance of diversion programs to provide alternative mediation and dispute resolution services to help families avoid Family Court in the first instance.
- **Child Custody and Domestic Violence Organizations and Litigants** - The testimony from Sanctuary for Families, the New York State Coalition Against Domestic Violence, Prevent Child Abuse New York, HerJustice, Safe Horizon, and others described the problems of abusers manipulating the court system, the need for enhanced training and supervision of judges, and various revisions to custody and visitation laws required to address issues of judicial discretion. This testimony included litigants who have faced tragic consequences due to the perceived failures of Family Court.

A number of policy changes are recommended based on the findings from the hearing, including funding legal service providers, investing in court programs and supports, legislation to ensure equal access to justice, protecting the rights and dignity of litigants, and “narrowing the front door” to the Family Court system to provide support to vulnerable New Yorkers and preempt litigation in the first place.

RECOMMENDATIONS

1. “NARROW THE FRONT DOOR”

New York’s social safety net should be strengthened and expanded in order to “narrow the front door” to Family Court and help families before they are in crisis. This includes providing access to affordable housing, poverty-reduction measures, and expansive changes to the child protective services system.

Resolving the issues with Family Court is not simply a matter of better funding for the existing system of professionals and public servants. Rather, we need to “narrow the front door” by **both** (i) providing families with necessary services, so that they are not reported to CPS agencies for symptoms of poverty, **and** (ii) broadly re-examining the systemic problems with how we police families. There was broad agreement at the joint hearing about the need to prevent and divert families from entering Family Court in the first instance, before investigations and proceedings commence. Moreover, as the NYSBA report noted, “[a]s happened with stop-and-frisk, we need to get to the point where people are looking at the child welfare system—essentially the act of the government entering the home of private citizens to judge their parenting—as overly invasive.” According to the NYSBA Report, only a quarter of child protective cases involve intentional, harmful acts by parents. Most cases involve parents who cannot meet their children’s basic needs due to poverty. For the vast majority of these cases, social services and poverty-reduction measures are required, not heavy-handed and invasive litigation in a court system that is already struggling with extensive backlogs. Unfortunately, New York has historically under-funded prevention services, which are intended to prevent child removals into the foster care system, and strengthen families that are struggling, and instead chosen a path of too-liberally reporting families to CPS agencies (with obvious and apparent racial disparities in those reports) and then all-too-often taking those families through traumatic investigations and litigation that could have been avoided.

Involvement with Family Court can be reduced by ensuring families know their legal rights during a CPS investigation. Other states like Texas have passed laws requiring CPS employees to read parents *Miranda*-style warnings at the initial point of contact. New York, on the other hand, has sadly lagged behind. Ensuring that parents know their rights, particularly in light of the high stakes, will be a positive development that will lead to more respectful interactions and the meaningful exercise of those already-existing legal rights as a check against overreach. Likewise, New York should consider re-examining the often-invasive system of mandated and anonymous reporting, which sweeps too many families into the Family Court. Above all, reducing New York's unacceptably high child poverty rates and implementing the forthcoming recommendations from the [New York State Child Poverty Reduction Advisory Council](#) will help shift the system toward support for children and families, rather than litigation.

Additional investment and expansion in alternative dispute resolution initiatives and community courts, such as the Emerging Adult Parts, problem-solving courts, and alternative dispute resolution programs, can likewise help direct more families away from the legal and carceral system and toward restorative services. The Unified Court System has requested an additional \$700,000 for community/problem-solving courts and \$300,000 for dispute resolution in the FY 2024-25 State Budget.

2. PROTECT THE RIGHTS OF LITIGANTS

The State Legislature should advance legislation to protect the rights of parents and children in the Family Court and child protective services systems, including the Family Miranda Rights Act (S901 Brisport/A1980 Walker), the Anti-Harassment in Reporting Act (S902 Brisport/A2478 Hevesi), Informed Consent Act (S320 Salazar/A109 Rosenthal), the Promoting Pre-Trial (PromPT) Stability Act (S3066 Ramos/A3750 Septimo), and legislation to expedite straightforward cases (S5269 Persaud/A5735 Reyes) and open courtrooms to the public (S8339 Mayer) and members of the media (S160 Hoylman-Sigal/A712 Weprin) at judicial discretion.

The legislature should also reform the procedures for child custody determinations in order to avoid the types of tragedies suffered by Kyra Franchetti, to ensure that the health and safety of children are properly protected, and to revisit the use of forensic child custody evaluators that have been widely criticized by the [Blue-Ribbon Commission on Forensic Custody Evaluations](#). In addition, Albany should also pursue enabling legislation

for various budget proposals, investigations into child strip searches, and creating an appellate mechanism for interim court orders, which can last up to months or years.

3. FULLY FUND LEGAL SERVICE PROVIDERS

Albany should increase pay for 18-B assigned counsel, fully fund it at the state level, and establish a long-term financial plan for regular cost-of-living adjustments. Funding should be increased for parental representation through ILS and child representation through OCA, as well.

In its 1972 decision, *Matter of Ella B*, the New York Court of Appeals held that low-income parents facing the loss of their child in a Family Court matter are entitled to assigned counsel. In so holding, the Court emphasized that a “parent’s concern for the liberty of the child, as well as for their care and controls involves too fundamental an interest to be relinquished to the State without ... assigned counsel if the parent lacks the means to retain a lawyer.”

This right has been codified in County Law Article 18-B, the law that had previously been enacted to codify the right to counsel from *Gideon v. Wainwright*. However, for years, New York has underfunded this basic legal right. Both the 2006 Commission on the Future of Indigent Legal Services (also known as the “Kaye Commission”) and the 2019 Unified Court System’s Commission on Parental Legal Representation have recommended that New York join the majority of states that fund the costs of their indigent defense system in its entirety. Failure to do so will lead to further racial disparities, unnecessary family separations and protracted litigation similar to the 2007 *Hurrell-Harring v. State of New York* class action lawsuit. While the legislature increased assigned counsel compensation in the FY 2024 budget for the first time in nineteen years, that rate has already fallen behind federal rates. In response, the hourly rates for 18-B attorneys should be raised to meet those of federal defenders in non-capital criminal cases (\$164 per hour as of January 1, 2023).

In addition, funding should be expanded for parental representation through the Office of Indigent Legal Services to sufficiently compensate attorneys, expand the workforce, and reduce attorney caseloads. The Office has estimated this cost to be \$150 million phased in over three years, with a \$50 million initial investment in FY 2024-25.

Funding for Attorneys for Children should be increased, as well, to ensure minors have advocates representing their best interests in Family Court disputes. The Legal Aid Society testified that an additional \$15 million in FY 2024-25 is needed to fully fund children's counsel statewide. The Unified Court System has requested an increase of \$19.7 million over the current year's budget for AFCs, reflecting funding for a 3% cost-of-living adjustment for legal services providers of AFCs and for enhanced services.

4. INVEST IN COURT PERSONNEL, PROGRAMS AND INFRASTRUCTURE

More Family Court judges should be added, especially in New York City, and the practice of rotating judges without Family Court experience must end. Adequate funding should be provided to increase court staff, keep judicial salaries competitive, help diversify the bench, provide supervised visitation, train court personnel, and repair courthouses.

In order to compensate for the lack of Family Court judges, the Supervising Judges have implemented a system of transferring inexperienced elected Civil Court judges to New York City Family Court. These transfers can occur on short notice, require training, and lead to inexcusable delays on important Family Court matters. There must be the proper number of Family Court judges to manage caseloads. The New York State Unified Court System has requested that the legislature pass legislation establishing twenty-eight more Family Court judgeships, in addition to the thirteen permitted under legislation passed by the State Legislature in 2023 (S7534 Hoylman-Sigal/A7669 Bores, Chap. 749 of 2023) and is requesting \$11.6 million in partial year funding for those judgeships in 2025 (this estimate includes nonjudicial support staff).

In addition, there should be adequate funding for the following:

- Essential judicial staff, such as language interpreters and translators to ensure every litigant can understand their case proceedings and to prevent unnecessary delays due to overburdened translators;
- Increased compensation for Family Court judges, to ensure high quality and a diverse pool of jurists in Family Court. The Commission on Judicial Compensation's recent draft recommendation of a 10% pay increase echoes this sentiment, and requested \$25 million in the FY 2024-25;
- Supervised visitation programs in every jurisdiction to ensure parents can see their children in a safe and timely manner. A July 2023 report from the New York

State Unified Court System Office for Justice Initiatives found such a statewide program would require dedicated state funding and amendments to the social services law, estimating the cost to be \$2,500 to \$3,000 per family for up to six months of supervised visitation. For the twenty counties currently lacking any supervised visitation services, start-up costs to establish a county program were estimated to be \$200,000 for one year;

- Creation of a pipeline of diverse Family Court judges and attorneys, including by charting a path to federal loan forgiveness for public servants whom federal forgiveness programs may exclude and for dedicated SUNY/CUNY law school scholarships for students from underrepresented backgrounds. According to the Williams Commission, a Bridge to Justice Scholarship program for SUNY/CUNY would require a \$146 million investment;
- Training of all court personnel in trauma- and bias-informed conduct;
- Coordination with local jurisdictions to provide for essential repairs to Family Court courthouses.

5. REFORM FAMILY COURT ADMINISTRATION AND PROCEDURES

Family Court could be improved through procedural changes, video conferencing to protect litigants from unnecessary court visits, greater oversight of judges and personnel, and open courtrooms.

Comprehensive procedural changes should be enacted, such as a uniform rules for Family Court proceedings, including guidelines for *pro se* litigants to ensure that all litigants understand how to navigate the court and that rules around tardiness, service procedure, and other matters are consistent across judges and jurisdictions.

It is crucial that emergency hearings under §§ 1027 and 1028 of the Family Court Act are expedited, and heard in a meaningful manner, rather than subject to lengthy and unnecessary delays. New York law is clear that children should not be needlessly separated from their parents, and that parents have the right to prompt hearings when their children are removed from their custody by CPS workers. Accordingly, New York State law requires that emergency hearings under §§ 1027 and 1028 be prioritized, as a safeguard against improper separations. Once a parent requests a § 1028 hearing, the law requires that “such hearing shall be held within three court days” and may not be

adjourned “except upon good cause shown.” Likewise, a hearing under Family Court Act § 1027 must commence no later than the next day after the filing of the Article 10 petition. However, these hearings are all too frequently subjected to lengthy delays beyond these time limits, are scheduled for short increments that do not allow for a meaningful hearing, and are conducted without discovery that should be provided.

Video conference technology should be deployed in a consistent and structured manner to save litigants hours of wait time at Family Court facilities. Wider access to Family Court UCMS systems should be allowed and a permanent e-filing system should be implemented to enable attorneys and advocates to better manage client cases. The Unified Court System has requested a \$14.6 million increase in funding for technology operations, including initiatives to upgrade video conferencing tools.

Oversight of judicial behavior and mechanisms for holding judges accountable for biased or inappropriate treatment should be expanded, and participants must be permitted to lodge complaints without fear of retaliation. More proceedings should be open to the public for observation, providing better mechanisms for filing and tracking complaints, and the public should be allowed to view data about judicial conduct in a format disaggregated by judge and jurisdiction.

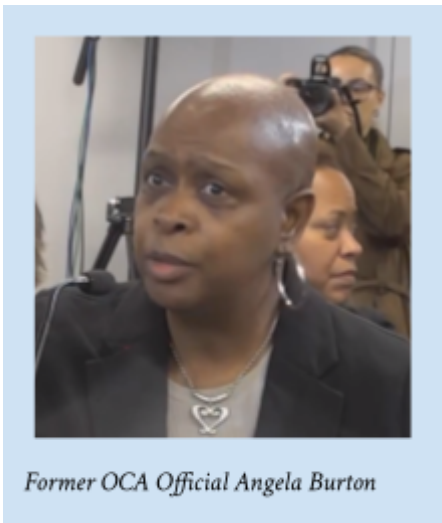
APPENDIX A: ORAL TESTIMONY

Panel A

(Video Timestamp at [0:14:22](#))

The first panel included parent witnesses Aaliya Ingram, Alexis Warnic, Sai Jimenez, and Heather Imperiale; former foster youth Kayla McMillan; and former OCA official Angela Burton. The parent witnesses discussed their experiences with Family Court following accusations of parental neglect. One witness said she was reported to CPS agents by her daughter's charter school after she was experiencing difficulties at work, causing her daughter to be absent from class. Other witnesses related stories of demeaning experiences with Family Court, including prolonged periods of separation among family members, invasive CPS investigations, and humiliating drug testing of mothers shortly after giving birth.

Several witnesses claimed that "Family Court sets you up to fail." They said judges treated parents and their attorneys in a disrespectful and perfunctory manner in court by cutting off their testimony, while giving undue deference to CPS agents and their attorneys. Ms. McMillan, for one, recounted her experience at being separated from her mother and placed into congregate care, which she compared to mass incarceration. She testified that New York has a "broken system" where children face "educational, mental, physical, and emotional abuse," and "the overwhelming majority of them look like me: Black."



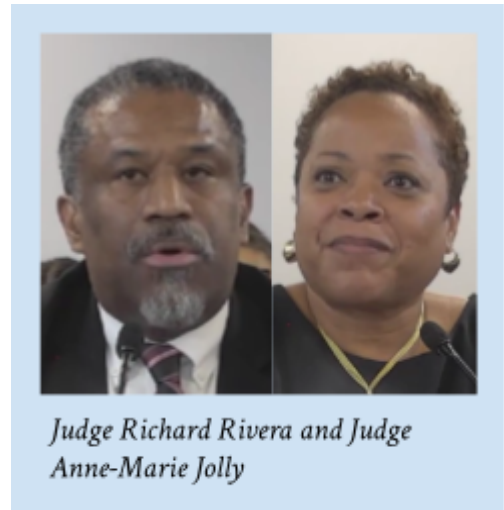
Ms. Burton spoke from her perspective as a former OCA official, law professor, clerk for the New York State Court of Appeals, and Commissioner of the New York State Office of Indigent Legal Services. She said the experiences described by parent witnesses were commonplace and rooted in racial disparities. Ms. Burton argued for "narrowing the front door" by diverting cases away from Family Court and shifting resources to the families themselves. In her opinion, this approach would save money, reduce suffering, and allow officials to concentrate on more serious cases.

Panel members supported eliminating mandated reporting, the Family Miranda Rights Act (S901 Brisport/A1980 Walker), greater accountability for CPS, and increasing funding for food and housing assistance.

Panel B

(Video Timestamp: [1:18:09](#))

The second panel consisted of Judge Richard Rivera, the Statewide Coordinating Judge for Family Courts for the Office of Court Administration, and Judge Anne-Marie Jolly, the New York City Family Court Administrative Judge. The judges provided an overview of the responsibilities of Family Court judges and staff. They identified where additional funding is needed, including hiring additional jurists, providing additional services to litigants such as mental health services and translation services, improving the infrastructure of courthouses, and improved accountability for judges who hold closed hearings.



Panel C

(Video Timestamp: [2:36:41](#))



The third panel included testimony from Hon. Ayesha Brantley, a current judge of the Family Court and President-Elect of the New York State Family Court Association; Mary Lynn Nicolas-Brewster, Executive Director of the Williams Commission; Patricia Warth, Director of Indigent Legal Services; and Bertina Capuano, Assistant Chief Deputy County Attorney for Westchester County.

Judge Brantley testified that “Family Court litigants would be served by the legislature’s prioritization of rebuilding our social services network,” and specifically called for increased resources for mental health services, forensic evaluations, parent training, substance abuse services, and supervised parental visitations. Judge Brantley also called for the legislature to robustly fund the state agencies that partner with the Family Court and to increase judicial security. Ms. Nicolas-Brewster’s testimony highlighted the recommendations made in the [Williams Commission Report](#), which included: expanding the number of judges in Family Court; investing in alternative dispute resolution, child care, and supervised visitation programs; robustly funding judicial staff and interpreters; and investing in technology and infrastructure within courthouses.

Ms. Warth recounted the history of litigation over assigned attorney caseloads and noted that New York State has continued to fall far short of its legal funding obligations. She testified that Family Court is “in crisis,” and that the failure to adequately fund public defenders has had terrible consequences for families of color, who she said are treated punitively, rather than with the compassion and appropriate services that would address their circumstances. She recommended directing existing funds for indigent legal services toward parental representation in Family Court, and that New York replicate certain procedures she says have worked well in criminal representation in the Family Courts. Ms. Capuano called for removing the requirement under Sec 350.3(4) of the Family Court Act stipulating that victims in juvenile delinquency cases not be notified of the disposition of cases, and advocated that judges should be held accountable for abusing their discretion to hold private proceedings.

Panel D

(Video Timestamp: [3:27:40](#))

The fourth panel consisted of testimony from Richard Lewis, President of the New York State Bar Association; Michael Weinstein, co-chair of the New York City Bar Association Family Court & Family Law Committee; and Rene Kathawala, co-chair of a New York City Bar Association working groups focused on race equity in New York Family Court, and co-author of the bar association report on Family Court matters.



Mr. Lewis highlighted the NYSBA report on systemic injustice in Family Court, testifying that "the Family Courts are a top priority because they are the courts in which most Americans experience the justice system," and that the NYSBA has had a "long and deep commitment" to addressing the "inherent structural racism that exists" within the Family Court and child welfare systems. According to Mr. Lewis, this troubling problem requires a "concerted reform effort to combat" the delivery of "second class justice to New Yorkers of color." Mr. Lewis testified to "the chronic lack of respect for individuals of color and unacceptable delays" that "far too often result in permanent damage to families and children." Mr. Lewis highlighted in particular the need for preventive services to preserve families, the need for an increase in state assigned counsel fees to address the problematic shortage of attorneys, and called for an expansion of the Family Court bench to reduce delays across the state.

Mr. Weinstein and Mr. Kathawala highlighted the [NYCBA report](#) that identified racial disparities in Family Court. They both testified that they had numerous clients who say they do not see any purpose in showing up in Family Court and enduring the disrespectful system. They recounted the prevalent viewpoint that "the management of the court system . . . unacceptably tolerates a broken court that has not seen substantial improvements in decades." At the same time, the "poor and working class litigants in Family Courts" have been effectively "silenced by our bureaucracy that does not see their plight as one worthy of a dignified process." These witnesses emphasized the need for consistent and uniform procedural rules in Family Court.

Panel E

(Video Timestamp: [4:11:03](#))

The fifth panel included testimony from Jacqueline Franchetti, the founder of Kyra's Champions; Wayne Baker, the Executor of the Estate of Catherine Kassenoff, who committed suicide after her experience with family separation through the Family Court; Natalie Blundell, representative from WeSpoke; and Andre Rainey, New York Chair of the National Parents Organization. Ms. Franchetti described the anguish at the loss of her daughter who was murdered by an abusive father and highlighted the failures of multiple Family Court staff to remove Kyra from her father's custody, even as his abuse was well-documented. Ms. Franchetti called for the passage of Kyra's Law, legislation named after her late daughter, (S3170/ A3342).



Natalie Blundell



Jacqueline Franchetti



Andre Rainey

Mr. Baker provided testimony related to the suicide of Catherine Kassenoff after a court indefinitely suspended her visitation rights to her children as a result of her adversarial divorce. The custody battle from the divorce took over four years.

Ms. Blundell shared that Family Court's flawed procedures and practices perpetuates harmful litigation, violence, and family separation. Ms. Blundell requested an investigation into the impacts of prolonged litigation on children and families, mandated visitation and custody determinations within six months of initial conference when cases lack abuse allegations, the establishment of a complaint hotline for Family Court, and a requirement for cameras in courtrooms.

Mr. Rainey's spoke of his experience with Family Court that resulted in the loss of equal custody of his children. He called for a shared parenting bill to prioritize equal custody for non-abusive parents and said after the State of Kentucky passed similar legislation, there was a decline in domestic violence.

Panel F

(Video Timestamp: [4:54:38](#))

This panel included Zainab Akbar of the Neighborhood Defender Services of Harlem, Jennifer Feinberg of the Center for Family Representation, Nicole Velasquez of Bronx Defenders Services, and Amy Mulzer of the Brooklyn Defender Services. The witnesses, who also submitted [joint written testimony](#), testified from the perspective of public defense providers,

struggling to represent parents in Article 10 cases in Family Court (*i.e.*, cases initiated by CPS agencies alleging neglect or abuse, typically initiated by either anonymous or mandated reports).



Nicole Velazquez



Zainab Akbar

The witnesses criticized New York's "family policing system," which they testified relies on "surveillance, punishment, and control of low-income Black and Brown and other marginalized communities, rather than genuine assistance." They described a system where families are over-reported to CPS agencies, and where anonymous reports to CPS agencies have been "used as a form of harassment or to settle personal grievances." The witnesses spoke to the racial disparities they have personally witnessed in Family Court, including the use of racial slurs by sitting judges, and how "the culture of racism in Family Court is pervasive." They testified that their Black and Brown clients are frequently treated with condescension and disdain by court officials, and that "intake" procedures (*i.e.*, the first appearance in court, where critical decisions are made as to whether a child will be removed from the family) are conducted in a rushed and confused manner, with procedural obstacles that prevent hearings that are fair to parents (and where parents of different class and race backgrounds see vastly different results). Statistically, the witnesses noted that Black parents, in particular, are disproportionately separated from their children at these hearings, and that this aspect of Family Court in particular had been criticized by the Johnson Report (which described the process as "dehumanizing" with a "cattle call culture").

At the same time that these hearings to separate families are rushed, these witnesses testified that hearings meant to reunite families (*i.e.*, hearings under Family Court Act §§1027 and 1028) face "intolerable delays," and that public defense providers face tremendous structural difficulties ranging from funding difficulties to a lack of proper interpreters.

Panel G

(Video Timestamp: [5:30:30](#))

The seventh panel included Dodd Terry of the Legal Aid Society, Joanna Davis of Legal Aid Society of Northeastern NY, David Shalleck-Klein of Family Justice Law Center, and David Lansner of the New York State Citizen Review Panel for Child Protective Services.



David Shalleck-Klein

The Legal Aid witnesses discussed Family Court procedure surrounding juvenile delinquency cases, family domestic violence litigation, custody, and visitation matters, testifying that the attorneys charged with assisting families suffer from a lack of resources and capacity. Witnesses spoke to budgetary issues facing AFCs, salary inequities, untenable caseloads, and the high rates of attrition, giving specific examples of how these important supports have been hindered by a lack of funding.

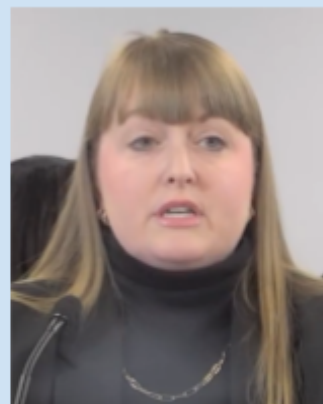
The Family Justice Law Center and Citizens Review Panel both testified to issues of civil rights, including the harm caused to families due to delays in Family Court, and cases where New York City was successfully sued for improper family separations and invasive searches. The witnesses expressed disappointment that, despite the well-documented problems and lawsuits over the years, Family Court has not meaningfully changed.

Panel H

(Video Timestamp: [6:00:42](#))

This panel consisted of Joan Gerhardt of the New York State Coalition Against Domestic Violence, Stacy Schecter of Safe Horizon, Jennifer Friedman of Sanctuary for Families, and Rachel Braunstein of HerJustice.

Ms. Gerhardt testified to the misconceptions many judges have around domestic violence and argued that domestic relations statutes governing domestic violence cases were not being adequately followed. She pointed to research finding



Stacey Schecter

that female survivors of domestic abuse lose custody of their children 28% of the time, and that mothers lose custody closer to half of the time when their abuser accuses them of alienating the child. Ms. Gerhardt urged the state to pass Kyra's Law (S3170A Skoufis/A3346A Hevesi), stop the rotation of untrained civil judges into Family Court, fund a statewide supervised visitation program, and allow survivors of domestic violence to access virtual proceedings.

Ms. Schechter highlighted the need for greater funding for nonprofit providers of legal services to Family Court litigants, and echoed Ms. Gerhardt's call for broader and standardized access to virtual proceedings. Ms. Friedman said survivors of domestic abuse face rampant bias in Family Court because of their intersecting identities and the dearth of trauma-informed Family Court personnel. Ms. Friedman shared an example of the drastic effect the rotation of judges into Family Court can have: One of her ongoing cases has been before six judges, including two trials before two separate judges. Ms. Friedman pointed out how litigation delays mean interim court orders can be in effect for extensive periods of time without any mechanism for appeal. Ms. Braunstein testified to the extensive backlogs in Family Court still resulting from the nearly two-year pause on new support petition filings during the pandemic, and the lack of publicly available data on the status and disposition of cases. She expressed HerJustice's support for expedited and alternative dispute resolution methods as a method of reducing case backlogs.

Panel I

(Video Timestamp: [6:32:03](#))

The ninth panel included Mark Funk of the Chief Defenders Association of New York ("CDANY"); Joanne Sirotkin of the Legal Services of the Hudson Valley ("LSHV"); Cathy Cramer of Family Legal Care; and Louise Feld of the Children's Law Center. The panel broadly acknowledged their agreement with much of the earlier testimony, including the race and class biases that they have observed in Family Court. Mr. Funk spoke to the issue of insufficient pay-rates for attorneys assigned as counsel under County Law Article 18-B, and what he said was the irreparable harm caused by rates not being raised for nineteen years. In Monroe County, the number of 18-B attorneys has dropped from seventy-seven down to fifty one over a period of just seven years.

Ms. Sirotkin testified to the importance of "narrowing the front door," and noted the racial disparities of the system where 75% of LSHV's clients are people of color. She agreed with accounts of the dehumanizing culture of Family Court, where "it is not unusual for attorneys and clients, including domestic violence survivors, to be yelled at by Family Court judges and treated

rudely by court personnel," and testified that bias training was insufficient to remedy the inadequate response to families with trauma. According to these witnesses, the culture of disrespect that exists within the Family Court is pervasive because of the assumptions of the people who routinely use the Family Court, namely, lower income and people of color. Ms. Sirotkin further testified as to a lack of language access and "a culture that lacks respect and compassion for the litigants," where "parents who are charged with Article 10 cases do not have the documents translated into their language of origin" and "literally cannot read the order that separates them from their children."

She said that while organizations like LSHV provide translation services for their clients, not all litigants have this benefit. For Article 10 cases, LSHV has observed undue delays, where cases drag on for multiple years with no fact-finding, and where courtrooms, although formally "open" are "presumptively closed." According to Ms. Sirotkin, "some judges don't assign counsel to vulnerable parties to resolve cases" and some judges are dangerously dismissive of domestic violence allegations.

Ms. Cramer also testified to the struggles of parents representing themselves in Family Court, and navigating the system without an attorney, which is an acute problem where the majority of cases involve unrepresented litigants. Ms. Feld further stressed that Family Court has had a disparate and negative impact on low-income people of color, that families face "unconscionable delays," and that "young people of color and their families are really being denied access to justice." In addition to echoing many of the previous recommendations, the witnesses on this panel stressed the importance of expanded e-filing access as well as virtual court appearances, together with appropriate cost-of-living increases for 18-B attorneys.

Panel J

(Video Timestamp: [7:02:18](#))

The final panel included Krystin Hernández, Esq., of [JMACforFamilies](#), and impacted parent-advocates Dessera Wright, Latia Govan, and Davene Roseborough. The parent-advocate witnesses recounted personal stories of racial bias and condescension from officials in Family Court, and the grave consequences of Family Court involvement. For example, one witness testified that her son had been severely abused in foster care. The witnesses testified that they struggled to keep up with the mandates imposed by Family Court, including missing school to attend a drug treatment program for marijuana and traveling long distances for family visits where being late resulted in harsh and condescending reprimands

from the court. The parents reported an overwhelming feeling of hopelessness in Family Court, where they didn't anticipate receiving genuine assistance, but rather would simply "endure routine discrimination, humiliation, ignorance, condescension, and hostility" from CPS agents and court officials. One witness testified that "Family Court was a place where it was clear that I was a second-class citizen." The witnesses recommended divestments away from systems that unjustly separate families, and "investment into community supports that truly treat and prevent harm" instead. Among other things, the witnesses recommended passing legislation to inform parents of their existing legal rights (S901 Brisport/A1980 Walker), reduce the number of anonymous and harassing reports to CPS agencies (S902 Brisport/A2479 Hevesi), and ensure that families give truly informed consent for certain testing of pregnant and postpartum mothers and newborns (S320 Salazar/A109 Rosenthal).

APPENDIX B: WRITTEN TESTIMONY

Testimony is available at: <http://bit.ly/3Si34aV>

LEGAL AND SUPPORTIVE SERVICES PROVIDERS

[New York Legal Assistance Group](#)

New York Legal Assistance Group ("NYLAG") provides free legal services and undertakes impact litigation efforts, policy advocacy, and community education to combat social, racial, and economic injustice. NYLAG highlighted that Family Court is under-resourced, over-burdened with cases, and harming families who are often low-income, families of color, or domestic violence survivors. Given the lack of consistent procedural rules, and a general reliance on judicial discretion, NYLAG testified that there is a "lack of effective appellate review" for Family Court decisions, which is compounded by long delays, sometimes years, that make any appellate decision almost meaningless. NYLAG called upon the Legislature to establish uniform rules of procedure, ensure that jurists receive adequate training and support, and hold jurists accountable for adhering to these procedural rules. NYLAG further called on the legislature to provide adequate resources and support to litigants, such as civil legal services, assigning counsel panels, quality supervised visitation, and abusive partner intervention programming.

[The Legal Aid Society Juvenile Rights Practice](#) (Video Timestamp: 5:31:50)

The Legal Aid Society (“LAS”) is the oldest and largest nonprofit legal services provider in the country. LAS’s Juvenile Rights Practice provides attorneys for children appearing in Family Court in Article 10 proceedings, representing about 34,000 children annually. In their testimony, LAS urged a reduction of New York’s statutory cap on AFC clients from 150 clients to 55 or 65 clients; the assignment of AFCs in voluntary placements pursuant to Social Services Law §358-a and adoption proceedings following Article 10 child welfare proceedings; and the addition of more judges, clerks, translators, forensic evaluators, and visitation supervisors to ensure timely proceedings in Family Court.

[Bronx Defenders / Brooklyn Defender Services / Center for Family Representation / Neighborhood Defender Service of Harlem](#) (Video Timestamp: 4:54:38)

The Bronx Defenders, Brooklyn Defender Services, Center for Family Representation and Neighborhood Defender Service of Harlem are the primary providers of mandated free legal representation for parents in Family Court Act Article 10 proceedings. Collectively, they have represented more than 43,000 parents since 2007, when New York City began contracting with family defense organizations to represent parents. The family defense organizations pointed to the disproportionate representation of Indigenous, Black, and Latine families in family policing and foster systems, noting that Family Court “is deeply implicated in perpetuating these disparities and inequalities.” They recommended New York eliminate mandated reporting, and provide and fund legal representation for parents in Family Court and during family policing investigations. The organizations pointed to the “rushed and truncated” nature of the Family Court intake process, detailing the alarming practice of extrajudicial removal of a child from their home by child protective services at times days before an Article 10 petition detailing allegations against the parent is filed, or moments before their first Family Court proceeding.

They report that this process allows bias to inform initial custody determinations noting that “although the percentage of reports leading to Article 10 filings for Black parents and Latine parents are similar, the reports made against Black parents are 50% more likely to result in removal than those made against Latine families.” They warned that the attorneys representing CPS agencies in Family Court proceedings “routinely prosecute these cases in a manner that causes unnecessary delays” and “undermines the procedural and substantive due process rights” of families. Family defense organizations also described the rampant use of dehumanizing language, rude treatment, and racist and classist remarks and tropes that their clients encounter in Family Court. They urged the legislature to adopt legislation to reduce instances of harassing anonymous calls to report parents for CPS investigation (S902 Brisport/A2479 Hevesi), require

informed consent for drug testing of mothers (S320 Salazar/A109B Rosenthal), inform parents under investigation by CPS agencies of their legal rights (S901 Brisport/A1980 Walker), and require prompt evidentiary hearings (S3066 Ramos/A3750 Septimo). The Article 10 attorneys also urged the legislature not to pass Kyra’s Law (S3170A Skoufis/A3346A Hevesi) as it is currently written because of their “serious due process concerns for parents and their children” that “risks making the legal process ripe for abuse.” The witnesses also urged the legislature to ensure timely parent representation during CPS investigations statewide.

[Family Legal Care](#) (Video Timestamp: 6:44:05)

Family Legal Care is the only legal services organization dedicated solely to empowering parents and caregivers to represent themselves in Family Court, and they provided testimony on the challenges *pro se* litigants face in Family Court. Based on these challenges, the testimony recommended enacting uniform procedural rules for the court; providing additional funding to hire additional jurists, clerks, and personnel; increasing 18-B attorney pay; requiring reasonable deadlines to address delays; providing Universal Case Management System (“UCMS”) and e-filing access to Family Legal Care and other legal assistance focused on *pro se* litigants; and improving the *pro se* litigant experience by clearly communicating procedural requirements, improving the website, simplifying forms, providing multiple language options, and ensuring a better environment in the court through jurist training.

[Chief Defenders Association of New York](#) (Video Timestamp: 6:32:43)

CDANY is a membership organization of the appointed Public Defenders, Conflict Defenders, Executive Directors of non-profit public defense offices and Administrators of Assigned Counsel Panels in the state of New York. Collectively, their offices represent nearly 400,000 people in criminal, family, and appellate courts each year throughout New York. CDANY urged the legislature to expand state funding for parental representation through the Office of Indigent Legal Services, increase the pay rate for assigned counsel attorneys, increasing funding for AFCs, and pass legislation informing parents under CPS investigation of their already-existing legal rights (S901 Brisport/A1980 Walker).

[Northern Manhattan Improvement Corporation](#)

The Northern Manhattan Improvement Corporation (NMIC) offers residents of Upper Manhattan and the Bronx free services in housing, education, benefits and finance, immigration, and social services. NMIC offered anonymized stories of difficulties faced by their clients, and raised concerns regarding the representation of victims and survivors of domestic violence in

Family Court. The testimony focused on the need to address the dearth of interpreters, the shortage of 18-B attorneys, the inadequate resources for supervised visitations, and the lack of Family Court judges.

[Sanctuary for Families](#) (Video Timestamp: [6:11:04](#))

Sanctuary for Families is the largest comprehensive service provider for survivors of domestic violence, human trafficking, and other related forms of gender-based violence. Their testimony focused on the failures of Family Court, and the dangers that this presents for survivors. This testimony called for enhanced training of judges and court personnel, an end to the rotation of judges on temporary assignments, an investment of resources to expand the judiciary, and revisions to the custody and visitation laws to prioritize child safety such as Kyra's Law (S3170A/A3346A).

[New York State Coalition Against Domestic Violence](#) (Video Timestamp: [6:01:21](#))

NYSCADV serves as an information clearinghouse, primary point of contact, and resource center on domestic violence issues in New York. NYSCADV's testimony highlighted the frequent failures of Family Court to protect children from abusers, the pattern of courts ignoring evidence of abuse and failing to believe mothers regarding allegations of abuse, and the rates at which mothers are losing child custody. The testimony recommended that courts screen all litigants for domestic violence and child abuse, reduce the number of court appearances for survivors, and end the rotation of untrained judges. NYSCADV also called for the strengthening of New York's vexatious litigation statute to ensure offenders are not wielding the court to further abuse victims, requiring training in domestic violence and child abuse for all *pro bono* attorneys, and requiring data collection about survivors' experiences in court.

NYSCADV further recommended requiring judges to take training on domestic violence, coercive control, and legal tactics of offenders, requiring judges to conduct review of any findings of abuse, ending the use of forensic custody evaluators, and improving supervised visitation programs.

[Lawyers for Children](#)

Lawyers for Children is a not-for-profit legal corporation that represents children in voluntary foster care, abuse, neglect, termination of parental rights, adoption, custody, guardianship, paternity, and juvenile justice proceedings in Family Court. Lawyers for Children provided testimony on the challenges faced by Family Court, and the "devastating impact on the families

served by those courts – largely low-income, Black and Brown families.” Lawyers for Children shared anonymized accounts of their clients’ experiences, discussing how “children are separated from their parents for unconscionable amounts of time,” and “parents and guardians who are desperately in need of child support orders to help feed their families are unable to obtain timely relief.” The testimony called for increased funding for AFCs to address the current staffing crisis, offer competitive wages, and manage “dangerously high workloads.” Lawyers for Children also described the consequences of the failure to adequately fund AFCs, including cases where high turnover leads to long adjournments “while new attorneys prepare to handle hundreds of cases.”

When attorneys are rendered ineffective by their “crushing caseloads,” the result is that “children remain in foster care longer than necessary, other children are discharged from foster care without all necessary services being put into place, and cases that might be quickly settled by attorneys who have time for thoughtful negotiation, instead drag on in court for many months.” Lawyers for Children recommended expanded access to UCMS, electronic filing systems and remote proceedings, the addition of more jurists to alleviate delays, and additional resources for supervised visitation programs.

[Children’s Law Center](#) (Video Timestamp: 6:51:13)

The Children’s Law Center (“CLC”) is the first not-for-profit legal services organization dedicated primarily to the representation of children in New York City Family Courts and New York State Supreme Court Integrated Domestic Violence Parts. CLC’s testimony focused on delays in case resolution and a lack of resources for services such as supervised visitation. The testimony emphasized the severe emotional distress, substance abuse, and even suicidal ideations, that resulted from involvement with, and prolonged delays within, Family Court. CLC recommended increased funding for AFC institutional provider offices, support for a statewide supervised visitation initiative, additional funding for adequately credentialed forensic custody evaluators, and increasing the number of Family Court judges with proper training in family law.

[Prevent Child Abuse NY](#)

Prevent Child Abuse New York’s (“PCANY”) mission is to prevent child abuse throughout the state. It provides training and assistance to professionals to help them create safe environments for children. PCANY’s testimony emphasized the importance of evidence-based policies targeting root causes of child abuse, such as poverty, and advocated for investments in economic support, safe housing, and quality child care, in order to address the root causes of the problems

that are currently addressed in Family Court. The testimony also emphasized the need for a trauma-informed approach to Family Court matters, and support for Kyra's Law (S3170A Skoufis/A3346A Hevesi). Furthermore, the testimony recommended improvements in technology and procedural rules for a more efficient and effective court system.

ADVOCACY/NONPROFIT/PROFESSIONAL GROUPS

Court Appointed Special Advocates for Children

Court Appointed Special Advocates for Children (“CASA-NYC”) is a volunteer organization that provides service and support to children and youth in foster care. CASA-NYC volunteers are appointed by court order where there is concern about the welfare of a child in foster care. CASA-NYC testified that its “ability to provide critical services is meaningfully impeded by” the poor condition of Family Courthouses. Manhattan Family Court, they wrote, has yet to be fitted with fiber optic cables, leaving court personnel and litigants to rely on extremely slow DSL for Internet access. Despite CASA-NYC’s repeated attempts, they reported that New York City Department of Citywide Administrative Services (“NYCDCAS”) insisted on procedural barriers to an improved internet connection that leaves clients and court personnel under-equipped to manage cases. CASA-NYC urged OCA and NYCDCAS to cooperate to repair and improve the technology in Family Court facilities.

Young Advocates for Fair Education

Young Advocates for Fair Education (“YAFFED”) is a leader in advocacy for better education in New York yeshivas. YAFFED focused its testimony on the Family Court’s failure to recognize the importance of children’s uninterrupted education. The testimony requested that judges be required to receive training on the Compulsory Education Law, and thoroughly review custody arrangements to ensure that a child’s educational needs are being met at a school that meets minimum educational requirements, with a legal presumption that if the school is failing the child, it is in the best interest of the child to attend an alternative school.

[WeSpoke](#) (Video Timestamp: 4:26:02)

WeSpoke is a grassroots peer-to-peer organization helping victims of domestic abuse navigate Family Court. They testified that domestic abuse survivors face delays and prolonged litigation in Family Court, which therefore strains their ability to afford legal representation. The unequal resources available to victims of abuse frequently makes them vulnerable to coercion in the court system, and to negative results that lead them to unnecessarily forfeit their parental rights. WeSpoke urged the legislature to conduct an investigation under Article 4 of the Legislative Law into how these dynamics affect New York children and parents, endorsed legislative proposals to mandate that custody determinations occur within six months, that the legislature set time limits for temporary restraining order hearings, that the court system create a whistleblower hotline for unethical conduct by court employees, that judges prohibit parent coordinators and conferences without litigants, and that the courts broaden access to court documents.

[HerJustice](#) (Video Timestamp: 6:16:30)

HerJustice pairs *pro bono* attorneys with women with legal needs in the areas of family, matrimonial, and immigration law. The HerJustice testimony discussed the dire need for legal representation in Family Court, as well as the extensive delays in crucial child support and custody proceedings. HerJustice endorsed legislation (S5269 Persaud/A5735 Reyes) to streamline straightforward cases for establishing child support orders where both parties voluntarily agree on the process, and recommended an expansion of e-filing and virtual appearances.

[Jewish Child Care Association of New York](#)

Jewish Child Care Association of New York (“JCCA”) is a child and family services agency that works with about 17,000 of New York State’s children and families each year. They provide foster and residential care, preventive services, education services, and behavioral health services. JCCA’s testimony discussed the fact that Family Court hours of operation are much shorter than those of civil and criminal courts, and called for the passage of legislation (S2355/A8225) that would extend the hours of Family Court operation. According to JCCA, the limited court hours have negative consequences and lead to unnecessary removals, noting that the “commonplace acceptance of removals without seeking prior court approval is due in part to the limited hours that judges are available.” JCCA also noted the problem of Family Courts lacking proper interpretation services, and that “on many occasions, families do not understand what is happening in a courtroom, which is particularly tragic when a child is being removed, or permanency is impeded as a result.” Therefore, JCCA called for an expansion to the interpreter program. In addition to these reforms, JCCA called for the adoption of kiosks in the local

community, with confidential technology equipment, to allow the use of remote hearings for families that need to appear remotely, but do not have direct access to the necessary technology themselves.

[Safe Horizon](#) (Video Timestamp: 6:06:56)

Safe Horizon provides direct legal advocacy and representation to indigent victims of domestic violence. Its testimony focused on the need to expand funding for attorneys and other court-based programs to support survivors, ways to end the bias and dehumanizing culture of Family Court, expanding virtual appearance options for survivors, improving court resources and facilities, and the current and future impact of Federal Victims of Crime Act (“VOCA”) funding cuts. Safe Horizon endorses Kyra’s Law (S3170A Skoufis/A3346A Hevesi) as well as legislation to authorize expedited settlement conference processes for establishing child support orders (S5269 Persaud/A5735 Reyes).

[New York City Bar Association](#) (Video Timestamp: 3:36:36 /3:38:42)

NYCBA wrote about inequities and systematic discrimination that plague Family Court as well as administrative delays that negatively impact children and families. The testimony criticized the OCA for tolerating a broken court that has not seen substantial improvements in decades, and highlighted NYCBA’s recommendation to enact uniform procedural and part rules for both in-person and remote proceedings in Family Court. NYCBA’s position is that clear rules will help ensure that all litigants and lawyers are treated fairly and equitably.

[Committee for Modern Courts](#)

The Committee for Modern Courts advocates for legislation designed to improve the administration of justice in New York. Much of the testimony discussed the challenges Family Court encountered during the COVID-19 pandemic caused by limited technological and logistical capacity. The testimony criticized the Family Court’s prioritization during the pandemic of “emergencies/essential” cases over “nonemergency/nonessential” cases. The Committee claims that this distinction unfairly limited access to the courts for families. The testimony also criticized Family Court’s failure to develop an effective system to disseminate updates and guidance to the public, and the insufficient current website. Finally, the testimony enumerated recommendations for electronic filing systems; public and regular statistical reporting; the development of an effective, user-friendly website; access for litigants lacking adequate technology; improved training for jurists; improved courtroom technology to expand access to remote proceedings; and uniform procedural rules.

JUDGES/GOVERNMENT

[New York City Family Court Judges Association](#)

Hon. Erik S. Pitchal submitted testimony on behalf of the New York City Family Court Judges Association, which represents all judges appointed by the New York City mayor, as well as judges temporarily assigned to the New York City Family Courts. The testimony highlighted that the Family Court is under-resourced and lacking sufficient staff and equipment. It went on to request additional legal and social services for children and families, investments to upgrade the infrastructure of Family Court, and additional resources for staffing.

[Statewide Coordinating Judge for Family Court Matters & Administrative Judge of New York City Family Court](#) (Video Timestamp: 1:19:08 / 1:20:44)

Hon. Richard Rivera and Hon. Anne-Marie Jolly submitted joint testimony to highlight the progress made to improve Family Court as well as the continuing challenges that linger and require reform. The witnesses highlighted recent improvements including the expansion of the number of sitting judges, the increased pay rates for 18-B attorneys, the new “Equal Justice Initiative,” the recent acceptance of virtual and hybrid proceedings, the expansion of alternative dispute resolution pathways, improved judicial training programs, and the opportunity for Family Court to continue to experiment with innovative programs such as the “Strong Starts” Court Initiative and the Parent Support Program in Kings County. The testimony also highlighted the need for reform related to supervised visitation programs, the juvenile detention program, and the therapeutic foster care system. The testimony concluded by requesting different reforms be tested in different courts across the state to help the legislature, court officials, and communities identify the best solutions for the problems aggrieving families in the system.

[New York State Court Clerks Association](#)

New York State Clerks Association represents clerks who work for Family Court. The testimony highlighted the shortage of clerks in Family Court, which causes severe strains that threaten the efficacy and efficiency of the court, making particular note of the workload strains in the Brooklyn court. The testimony added that “administratively, the denial of overtime, in light of the evident high workload, is baffling and only adds to the problem.” The testimony also highlighted the troubling infrastructure issues facing Family Court, including “persistent cold conditions” and “recurring plumbing challenges” in Brooklyn Family Court, as well as

“significant water damage, rodent infestations, and occasional flooding during heavy rains” in Bronx Family Court.

[New York State Office of Indigent Legal Services](#) (Video Timestamp: 2:52:55)

Testimony from the New York State Office of Indigent Legal Services (“ILS”) called for investment to remedy the state’s neglect of its constitutionally mandated obligation to ensure legal representation for low-income parents in Family Court proceedings where there is a risk of family separation, as recognized by the New York State Court of Appeals in the *Matter of Ella B* case. The testimony also highlighted the state’s historic failure to live up to this obligation, the crisis in the quality of representation for indigent litigants, the racial disparities experienced in Family Court, and the needless removal of children from their homes. The ILS testimony further warned that the state’s failure to provide adequate legal counsel exposes the state to potential litigation similar to the *Hurrell-Harring v. State of New York* class action lawsuit. The ILS testimony proposed that the state fully fund caseload standard compliance for legally mandated parent representation, just as it has for legally mandated criminal defense. Ms. Warth predicts that this “would require \$50 million in ILS’ Aid to Localities budget for FY 2024-25, \$100 million for FY 2025-26, and \$150 million for FY 2026-27 and subsequent budget years.”

[Westchester County Attorney’s Office](#) (Video Timestamp: 2:58:31)

Bertina Capuano represents the Family Court Bureau of the Westchester County Attorney’s Office. The Family Court Bureau handles juvenile delinquency matters, child protective proceedings, and child support cases in Westchester County. In her testimony, Ms. Capuano referred to the Johnson and Williams Commission reports, suggesting the repeal of Section 350.3(4) of the Family Court Act which prevents informing victims of juvenile delinquency cases about the final disposition. The testimony urged the Legislature to consider codifying the right of parents of child witnesses and victims to observe proceedings and limiting the court’s discretion to exclude the public, and emphasized the need for accountability for judges. Regarding the issue of court delays, the Family Court Bureau acknowledged the need for more resources but emphasized the importance of accountability and oversight to address the root causes of delays. It suggested supervising judges should have a role in managing caseloads and reviewing performance. Lastly, this testimony discussed the potential benefits of technology in Family Court, suggesting a hybrid structure with virtual preliminary appearances would improve efficiency and accessibility for litigants.

INDIVIDUALS

[Amy Harrod](#)

Amy Harrod provided testimony on her personal experience with Family Court, struggling against allegations made by her ex-husband, and navigating the legal system without effective counsel. In Ms. Harrod's case, her ex-husband's child "support to me was stopped, and I was ordered to pay him due to him having the children living with him" even though "he makes 4x my salary." Ms. Harrod recommended that "the courts need to intervene and involve outside entities/counselors trained in family dynamics," so that appropriate social and legal support are offered, and to ensure that families are not separated on the basis of false allegations.

[Carol Nally O'Leary](#)

Carol Nally O'Leary's testimony enumerated nineteen proposed requirements that Ms. O'Leary believes should be implemented in Family Court. These proposals included, *inter alia*, that all persons wishing to testify be allowed to do so on the record, that judges be adequately prepared for the cases they are hearing, that judges who scream at witnesses be removed, and that equal access to counsel be granted to all parties so as to avoid what the witness described as "legal fee domestic violence."

[Chantal O'Brien](#)

Chantal O'Brien provided testimony summarizing her personal experience with Family Court during her childhood. Ms. O'Brien testified that her mother is a domestic violence survivor, who sought assistance from Family Court when separating from her abusive father. However, when she finally obtained an order of protection, it did not prevent her abusive father from living with them, but merely directed him to abstain from using physical force against his family. Ms. O'Brien testified that this outcome put her life in danger, and that her mother ultimately had to take the children to a family member's house, and then an emergency homeless shelter. However, rather than receiving appropriate assistance, this led to a mandated report for alleged neglect and intervention from CPS agents, ultimately leading to Ms. O'Brien and her siblings being placed into the foster system.

Ms. O'Brien recounted her experience with abuse in the foster system, with her guardians beating her and her sisters, and falsely accusing them of mental illness when they attempted to

complain to authorities. Ms. O'Brien's mother attempted to regain custody, since the original placement had been voluntary, but this attempt was prevented by Ms. O'Brien's foster mother. Ms. O'Brien expressed dissatisfaction that her foster mother was permitted by authorities to make false allegations of abuse against her biological mother, and that "no one from Manhattan Family Court questioned us—not even our law guardian at Lawyers for Children."

Overall, Ms. O'Brien testified as to a lengthy process where various parties—including JCCA and the New York City Administration for Children Services ("ACS")—not only failed to protect and support her, but actively hindered her attempts to pursue safety and family reunification. Ms. O'Brien testified that Family Court and CPS function as a system of "state sanctioned, court-approved violence."

[Christine McCue, Esq.](#)

Christine McCue's testimony requests that the Family Court "listen and include." Ms. McCue has been a Family Court attorney for over twenty years, and also has personal experience litigating in Family Court. Ms. McCue strongly urged that the legislature listen to and include survivors of Family Court as reforms are implemented, and argued that "by allowing it to remain un-fixed, New York State is complicit in the continued abuse that Family Court imposes on families one generation after another." Ms. McCue testified that, in her experience, Family Court judges approach cases "believing they 'know what needs to happen' in any particular case and therefore they reverse engineer their decision to comport with the requisite legal standard no matter what they hear in court or allow to be heard in court." She further testified that Family Court judges do not appear to be sensitive to issues of trauma and abuse facing families, and that Family Court judges are broadly "dismissive and demeaning" towards litigants.

[Nancy Erickson, Esq.](#)

Nancy Erickson, Esq. is an attorney and former law professor. Her testimony highlighted the lack of supervision over judges, requested additional training and expertise from judges on domestic violence, and highlighted the disparities caused by inequalities in counsel between parties. Ms. Erickson requested that more court appointed counsel be hired and paid higher rates, that such counsel be required for more categories of cases, that the legislature abolish the use of forensic custody evaluators, that AFCs work to advocate the interests of the children they represent, that the budget expand the pay and status of all judicial officers in Family Court, and that an ombudsman be appointed to independently exercise oversight.

[Olesya Lek](#)

Olesya Lek's testimony included a description of her personal experience with Family Court and how this experience impacted her and her eight-year-old daughter. Ms. Lek recommended the establishment of mandated reviews of ongoing cases to avoid unnecessary delays in child welfare matters, giving families more information about the timelines of their cases and the reasons for any delays, and a prioritization of cases involving children. Ms. Lek concluded her testimony by listing forty-four children who have lost their lives while being involved in New York State Family Court proceedings.

[Brandy X. Lee, M.D., M.Div.](#)

Brandy Lee is a forensic psychiatrist and violence expert who taught at Yale School of Medicine, Yale Law School, Columbia University and Harvard Medical School. She is also the co-founder of the Violence Prevention Institute and president of the World Mental Health Coalition. Ms. Lee's testimony highlighted the troubling statistics of domestic violence and discussed Family Court's role in perpetuating this violence after failing to protect survivors and children from abusers. The testimony highlighted the biases mothers and children face when attempting to bring valid concerns of abuse by fathers and how too often the court ignores such requests or even strips the mother's custody, leaving the children in the care of abusive fathers. Ms. Lee recommended that New York implement more transparency and accountability, and requested that judges not receive immunity in certain circumstances.

ACKNOWLEDGMENTS

Chair Hoylman-Sigal would like to thank his staff for their role in organizing the hearing on Family Court and publishing this report, especially Deputy Legislative Director Gabriella Limón and Legal Extern Jonathan Wampler for reviewing the hours of footage, reviewing hundreds of pages of testimony, and compiling that material into these summaries and recommendations.

Chair Brisport would similarly like to thank his staff for their role in organizing this hearing and report, particularly Counsel & Legislative Director James Ostaszewski for working with the experts and litigants, and spending the past few years on the committee delving into these issues.

Both chairs would also like to thank the many staff from the Majority Conference that made this hearing possible, including but not limited to Assistant Deputy Counsel Jessica Keenan, Senior Counsel Steven Koch, Director of Legislative Operations Andrew Goldston, Legislative Analyst Sadia Robinson, Director of Media Services Eric Hoppel, and Digital Director Fanes Saintil, as well as members of the Senate Judiciary and Children and Families Committees for their participation in the November hearing.