

**NEW YORK
CITY BAR**

**COMMITTEE ON FAMILY
COURT AND FAMILY LAW**

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March 1, 2007

The Hon. Eliot Spitzer
Governor of the State of New York
Executive Chambers
State Capitol
Albany, New York 12224

Dear Governor Spitzer,

On behalf of the New York City Bar Association and its Family Court and Family Law Committee, we applaud your recently released Executive Budget which demonstrates your commitment to addressing the needs of families in crisis. The Family Court and Family Law Committee represents a diverse spectrum of child welfare and family law stakeholders - judges, court personnel, attorneys representing parents and children, representatives from the Administration for Children Services, and academics – all dedicated to strengthening the practice in Family Court in order to keep families together safely.

As Office of Children and Family Services Commissioner Gladys Carrion noted in her January 11, 2007 testimony before the New York City Council Committee on General Welfare, the tragic deaths of Nixzmary Brown, Dahquay Gillians, and Quachuan Browne triggered an overwhelming increase in the number of families coming into contact with New York City's Administration for Children's Services (ACS) and its contract agencies. The Executive Budget proposal to increase open-ended funding for child welfare services by \$84 million and to increase funding for the Foster Care Block Grant by \$36.3 million will help alleviate the burden New York City faces in providing appropriate services for these children and families. Requiring local districts to develop performance-based contracts for preventive services, measuring success by reductions in the number of children in foster care and the length of their stay in care, is a positive step toward ensuring that children do not languish in care. We also support the inclusion of additional criteria for measuring success. For children who cannot be reunified with

their parents, we support the proposed increase in funding for foster care providers and for adoption subsidies for children with special needs.

ACS, however, does not work in a vacuum. The sustained increase in child protective reports has stretched the resources of all of the stakeholders in the family court system to their limits and beyond. With an increase of 165% in neglect filings and 65% in abuse filings, judicial caseloads have risen from 1,406 cases per judge in 2005 to 2,358 cases in 2006. The concurrent implementation of the new permanency legislation has doubled the number of court appearances in child protective cases.

Law Guardians, attorneys who represent children in abuse and neglect cases, are representing between 200 and 300 children at any given time. In many counties, caseloads of individual Assigned Counsel Plan attorneys have surpassed the saturation point, leaving the court, in February 2007, without attorneys to accept assignments of new abuse and neglect cases on seven out of seventeen court days.

What these figures cannot convey is the impact these unworkable caseloads have on the children and families who pass through the Family Court system. No amount of skill or hard work can mitigate the effect of calendars that require a judge to hear twenty-five or thirty extremely sensitive cases in a single day, but the alternative - stretching cases out over longer periods of time - is also damaging when delay means children remain in foster care longer than is necessary to ensure their safety. Attorney caseloads in the hundreds pose a major threat to the quality of representation, and make case scheduling a nightmare.

We urge you to support legislation amending FCA § 121 to increase the number of Family Court judges. We support additional funding for Law Guardians, and a contract provision or legislation that allows law guardians to limit or close their intake when excessive attorney caseloads threaten to impede effective practice. We applaud the decision of the Mayor's Office to augment representation for parents in child protective cases by negotiating contracts with institutional providers. These contracts, like those of the Law Guardians, should contain a provision that permits attorneys to maintain caseloads that comport with national standards.

Family Courts deal with some of the most important and far-reaching issues in our society. We thank you for the steps you have taken to increase funding to child welfare programs, and look forward to working with you to ensure that all stakeholders in the Family Court System are funded and staffed adequately.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Fisher Gutheil". The signature is fluid and cursive, written over a white background.

Karen Fisher Gutheil, Esq.
Chair