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Improving Access to Justice for All Litigants in New York City Family Court COVID-19 Crisis Lays Bare “Deep Inequities in Family Court”

New York, February 4, 2021 – A working group comprised of New York City Bar Association members and Fund for Modern Courts representatives has issued a [report](#) “to shed light on the crisis in the Family Court, document and analyze steps that were taken (or not taken) in order to ensure access to justice during and subsequent to the worst months of the pandemic, and make recommendations for meaningful reform based on lessons learned.”

Emphasizing that collaboration among bench, bar, court officials and all stakeholders is necessary in order to meaningfully improve Family Court operations and to advocate for the increased resources necessary to do so, the report states, “We are eager to work closely with the Family Court to ensure that we leverage this moment to reimagine how the Court can better ensure equal access to justice for all New Yorkers.”

The report says that as a result of long-standing “deep inequities in that historically under-resourced court... Family Court was ill-equipped to respond quickly, consistently, fairly and comprehensively to the needs of all litigants” during the COVID-19 crisis. It reiterates Secretary Jeh Johnson’s conclusion from his [2020 Equal Justice report](#) that, when it comes to New York’s under-resourced trial courts such as Family Court, “[t]he picture painted for us was that of a second-class system of justice for people of color in New York State.” The working group’s report makes clear that the Family Court is “primarily serving unrepresented litigants, lower-income families and communities of color.” Accordingly, the report says, “these recommendations will not simply make the system more efficient but are essential for equal access to justice.”

The report makes recommendations that “are achievable and necessary and already subject to broad consensus among Family Court stakeholders,” including calls for Family Court to adopt NYSCEF e-filing; provide regular statistical reporting; enact uniform rules; expand technological capabilities for remote proceedings and for communications with stakeholders; act expediently to provide all lawyers who work in the Family Court with UCMS access; move judges, staff, and other resources from other trial courts as necessary and appropriate to tackle backlogs and delays; and expand judicial resources and management training for jurists. The report also

recommends that Court leaders “engage with stakeholders on a plan for the complete reopening of the Family Court.”

The report focuses its recommendations on steps the Court can take right away but also acknowledges the lack of resources provided to the Family Court and New York’s complicated court structure, noting that the Fund For Modern Courts is spearheading support for the Chief Judge’s proposal to “address underlying inequities in the court system” by simplifying the system through an amendment to the New York State Constitution, which requires legislative action.

Report authors interviewed institutional providers, legal services organizations, the Assigned Counsel Panel in each borough, Hon. George J. Silver, then-Chief Administrative Judge of NYC, and Hon. Jeanette Ruiz, then-Administrative Judge of Family Court, and a number of litigants whose personal experiences are documented in the report. Based on these interviews, the report draws a timeline of the Family Court through the pandemic, in which the Court’s operations were severely curtailed. Unacceptably long delays resulted, to the detriment of the families and children relying on the Family Court to resolve cases involving matters including child custody, support and visitation, guardianship and adoption. The Family Court largely heard only “essential” and “emergency” matters, but according to the report, “it never defined what constituted an ‘emergency.’ Accordingly, while some creative lawyers were able to fashion their cases as ‘emergencies,’ the vast majority of litigants—especially unrepresented litigants who make up 80% or more of the court population—had virtually no access to the Family Court.”

The report acknowledges that the timeline was difficult to reconstruct and that “under stressful and uncertain conditions...difficult choices had to be made” by the Family Court. But the working group maintains that completing the report was an extremely important exercise in order to achieve urgently needed reform. The report asserts that “we can both acknowledge these facts and remain firm in our belief that the pandemic illuminated significant inequities, shortfalls and a lack of readiness in Family Court, to the detriment of many. We need to take account and challenge ourselves to do better.”

Read the report here: <https://bit.ly/3HubbKY>

About the Association

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