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## **Family Court Judicial Appointment and Assignment Process Causes Delays that Harm Vulnerable Children and Families**

### **City Bar Makes Recommendations to Improve Efficiency and Transparency**

New York, March 3, 2021 – The New York City Bar Association, through a working group representing the combined effort of several of the Association’s standing committees, has [issued a report](#) giving voice to “significant concerns” about the process by which Family Court judges are appointed and assigned. According to the report of the Family Court Judicial Appointment & Assignment Process Work Group, “the current system leaves the Family Court in a state of constant flux, referred to by some in court leadership as a ‘transient bench,’ that compromises the administration of justice, often at critical points for the safety and security of families and children.”

The report details the interconnecting causes of lapses in effective coverage of Family Court cases by jurists. First among these is an appointment process that does not adequately anticipate judicial vacancies through retirement or transfer, resulting in Family Court parts “remaining without judicial officers for lengthy periods of time.” A common stopgap solution, according to the report, is the temporary assignment of Civil Court judges to the Family Court, which the report determines is “highly disruptive and inefficient” because those judges are largely unable “to perform on the same level of efficiency as other Family Court Judges given a lack of experience and expertise in family law.” In addition, those judges’ tenure in Family Court often end just as they are becoming familiar with the applicable law and the cases on their dockets.

Included in the evidence collected in the report are numerous experiences cited by Family Court practitioners, who relate the “hardship and delays imposed on children, families and practitioners” by the failings enumerated in the report, including delaying children being reunited with their families.

The report provides detailed explanations of the roles and processes of the two entities responsible for the appointment, assignment and reassignment of jurists to the Family Court: the New York City Mayor’s Advisory Committee on the Judiciary and the New York State Office of Court Administration. Nine recommendations are offered that “will mitigate the delay and disruption that result from judicial vacancies and transfers,” including a call to improve training programs for judges, improve data collection, increase transparency in the assignment process, and increase coordination between the various responsible government bodies.

Summarizing the critical multi-dimensional impact of the problem addressed by the report, Work Group member and retired Family Court Judge Sidney Gribetz stated, “In the lifespan of the child, time is especially important, and delays in adjudicating court cases involving children have a lasting influence on the health and welfare of our families. In the City’s Family Courts, which are closely connected to the fabric of our communities, these negative institutional effects have a disproportionate impact on communities of color, which heightens the need for critical attention. The Work Group’s recommendations, if implemented, can go far towards ameliorating the serious consequences of the delays that have long plagued Family Court.”

Significantly, Glenn Metsch-Ampel, General Counsel & Deputy Executive Director of Lawyers For Children who, together with retired Family Court Judge Daniel Turbow chaired the Work Group, emphasized that many of the recommendations were largely budget-neutral: “For example, MACJ currently does not maintain a digital database to track applications as they are received and processed, and it still requires applicants to submit printed hard copies of their applications. Significant efficiencies could be achieved by use of inexpensive database software. Similarly, raw information that would permit a better understanding of the problem of court parts being left uncovered by jurists is already being collected in OCA. It should take little additional effort to ‘run the numbers’ in a way that could accurately ascertain and analyze the length of time parts remain uncovered and the resulting delay in the disposition of cases.”

The Report brings together input from a wide variety of sources at OCA, MACJ, and the community of advocates and practitioners working in the Family Court system. The report makes clear that it is just the first step of an ongoing initiative aimed at redressing the problems it highlights. Thus, the Work Group looks forward to a continued collaboration with stakeholders and intends to monitor responses to the Report’s recommendations and provide additional feedback before issuing a supplementary report later this year. In addition, the Association is planning to hold a public event where the issues raised by the Report, and possible solutions, will be comprehensively examined.

**Rene Kathawala, Pro Bono Counsel for global law firm Orrick and Work Group member**, said, “We are hopeful the court’s leadership will consider adopting these recommendations to cure longstanding problems in the system of appointing and assigning judges in New York’s family courts. Children and families are not getting the quality of social justice they deserve in our family courts. This has resulted in harmful delays and inefficiencies that impact the lives of those who depend on family court services, primarily vulnerable children and parents.”

**Dawne Mitchell, Attorney-in-Charge of the Juvenile Rights Practice at The Legal Aid Society; Chair of the City Bar Association’s Council on Children; Work Group member**, said, “This report sheds some much needed light on New York’s broken appointment and assignment process for family court judges and how lapses in effective judicial coverage cause ripple effects felt throughout the Family Court system. As such, The Legal Aid Society enthusiastically endorses the reforms detailed in this report, which will benefit the children and families that rely on family court, and we will work with the Mayor’s Advisory Committee on the Judiciary and New York State Office of Court Administration and others to see these proposals codified into practice.”

**Karen Freedman, Executive Director, Lawyers For Children**, said, “The overwhelming majority of children involved in the City’s child welfare system are Black and Latinx. These children along with other children in crisis depend on NYC Family Court judges to make life-changing, nuanced decisions. They deserve the consistency of a single judge who knows their case and their family and has expertise in family law as well as family court experience. We call on the Mayor’s Office and the Chief Judge to make the changes identified in The City Bar’s Report that are necessary to promote equity and ensure that no child falls through the cracks.”

**Dorchen Leidholdt, Director, Legal Center, Sanctuary for Families**, said, “Without experienced, compassionate, knowledgeable judges who can respond swiftly and appropriately to urgent situations, domestic violence survivors and their children face continued danger, homelessness, acute material deprivation, and psychological and physical trauma. These harms have increased dramatically during the Covid-19 Pandemic. The New York City Bar Association’s crucially important recommendations would help ensure that all survivors receive the quality of adjudication they and their children so urgently need.”

**Rich Leimsider, Executive Director, Safe Passage Project**, said, “Experienced and compassionate Family Court Judges are a linchpin to the pursuit of justice for immigrant children in NYC. This important report from the NYC Bar Association makes it clear that a few straightforward, achievable reforms can make a huge difference for young New Yorkers such as the ones Safe Passage Project serves. We encourage the rapid adoption of these recommendations.”

**Beth Goldman, President & Attorney-in-Charge, New York Legal Assistance Group (NYLAG)**, said, “For survivors of domestic violence, protracted proceedings leave many living in physical danger and economic instability as they await resolution from the court. Delays caused by vacancies and short-term judicial appointments necessitating transfers of cases between jurists, increase the risk of re-traumatization for survivors. We are in the middle of a crisis that has led to higher levels of urgent and unmet need in our communities. While nobody could be fully prepared for this pandemic, many of the issues that have come about – including the courts’ limited capacity to hear the full variety of cases before it – have been compounded by many of the long-standing issues: including delays, lack of extensive training for the judiciary on issues of diversity, systemic violence, and trauma, and systemic barriers to access to the courts. It is essential we respond to both the current crisis as well as the longer-term unmet needs. We hope that OCA and MACJ continue to engage with the practitioners and litigants who appear before them to ensure that family court remains accessible for and responsive to the needs of the individuals and communities engaged in the family court system.”

**Cathy Cramer, CEO, Legal Information for Families Today**, said, “Over 80% of litigants in NYS Family Courts are not represented by an attorney. The litigants we help at LIFT tell us daily the difficulties they have navigating a confusing and overburdened system on their own. The gaps in experienced judicial appointments and the problems with the assignment process identified in the report greatly exacerbate these issues and result in pro se litigants facing setbacks and uncertainties that are profoundly detrimental to these families. It can mean that a child is delayed months from being able to see a parent or loved one. We applaud the recommendations of the Report and look forward to working together to achieve them.”

**Rachel Davidson, Managing Attorney, Policy & Special Projects, The Door**, said, “Family Court Judges are tasked with life and death decisions that ultimately impact whether an immigrant child finds permanency and protection in New York or is left vulnerable to deportation. The Door’s clients rely on New York Family Courts to protect their rights and ensure that their best interests are accounted for in any determination regarding their care and welfare. Leaving vacancies open or filling them with judges without adequate trauma-informed training and a deep understanding of the family law and child welfare systems, puts the safety, futures and lives of undocumented NYC youth at risk.”

**Lauren Shapiro, Managing Director of Brooklyn Defender Services' Family Defense Practice and Work Group member**, said, “The NYC Bar Association Working Group's report confirms what we as public defenders representing parents in Kings County Family Court have witnessed over the years. Delays and gaps in Family Court judicial appointments and assignments unfairly and unjustly delay family reunification and contribute to the long-lasting trauma of separation. This is an issue of racial justice and equity, as the families impacted by the system are disproportionately Black, Latinx, and other

families of color. The Court system must take consideration of the impacts on families when making decisions, and should also implement the recommendations laid out in the report as an important step towards addressing the chronic delays that have lasting consequences.”

**Karen Simmons, Executive Director, Children’s Law Center**, said, “The Children’s Law Center applauds the work of the New York City Bar’s Family Court Judicial Appointment & Assignment Process Work Group. The Work Group’s December 2020 report lays bare how the current Family Court judicial appointment system results in substantial delays that hinder litigants’ ability to access justice in an efficient and effective manner. As lawyers for children in NYC’s Family Courts, we know that the need to address this problem is absolutely urgent. Far too many of our young clients are forced, unnecessarily, to spend far too many of their childhood years entangled in their families’ emotionally-fraught, high-conflict litigation. For the sake of these children, we hope that the Work Group’s thoughtful, practical, and actionable recommendations will be implemented.”

**William C. Silverman, Pro Bono Partner at Proskauer and Work Group member**, said, “Improving the judicial appointment and assignment process in Family Court will help alleviate the inherent delay and confusion resulting from a court structure better-suited for the 1800s. Especially in the absence of constitutional reform, these measures are needed to help ensure the safety and security of families and children.”

Read the full report here: <https://bit.ly/38drbjV>

#### **About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*  
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