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**TESTIMONY OF JENNIFER FRIEDMAN
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The Senate Standing Committee on Children & Families
Oversight Hearing on Family Court
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Good morning. I am Jennifer Friedman, the Senior Program Director for the Family Law Project & Policy at Sanctuary for Families, New York State’s largest comprehensive service provider for survivors of domestic violence, human trafficking, and related forms of gender-based violence. We are so grateful for the opportunity to testify today at this Joint Hearing on the State’s Family Court system—a critically important, often life-saving part of the justice system for survivors. Our special thanks to the Judiciary Committee Chair, Senator Brad Hoylman-Sigal; and Children & Families Committee Chair Senator Jabari Brisport, for calling this hearing to address a court system badly in need of resources and reform.

In my role at Sanctuary, I oversee family law services at the Bronx, Queens, and Manhattan Family Justice Centers, which provide a full range of legal and social services, with over 20 service providers as well as police and prosecutors co-located within the secure DA office buildings in each borough. Sanctuary’s family law services are now in the Family Justice Centers in all five boroughs, with 27 attorneys and paralegals citywide. Even before I took on this role five years ago, I worked for two decades in the family courts: in fact, in 1997 I founded Sanctuary’s Courtroom Advocates Project, which has worked directly in the NYC family court petition rooms, assisting thousands of abuse survivors seeking orders of protection over the past 25 years. I have also been deeply involved in policy and systems change, and last October, organized a 2-day Family Law Conference with over 700 attendees and speakers including attorneys, scholars, survivors, judiciary, social service professionals, psychologists, and advocates.

It is not controversial to say that New York's family courts are badly in need of reform: indeed this Joint Committee's hearing notice acknowledged it, citing the deeply critical report produced by Special Advisor on Equal Justice in the Courts Jeh Johnson. The court system, much to its credit, actually commissioned the Johnson Report—they, too, are cognizant of the need for major reforms. The sobering reality is that many of the findings and experiences detailed in the Johnson Report are “a mirror image of what Franklin Williams found in his report in 1991,” more than 30 years ago, according to Hon. Troy Webber, a justice in the State Supreme Court Appellate Division, and Co-Chair of the Franklin H. Williams Judicial Commission.

Our conference last year led to the publication of a report detailing the barriers preventing justice for survivors and a blueprint for reform. The list of barriers includes: 1) bias against abuse survivors and their legal teams on the basis of an array of intersecting identities including race, gender, religion, sexual orientation, immigrant status, and poverty. 2) A lack of understanding by the judiciary of trauma, coercive control, and lethality factors for abuse survivors. 3) There has been a notable failure to prioritize the safety needs of abuse survivors and children over the opposing party's demands for custody and visitation. 4) The family court infrastructure is badly under-resourced, with insufficient numbers of judges forced to handle overwhelming dockets, and judges from other courts rotated in to address this paucity—resulting in a revolving door of judiciary without experience in or commitment to family court matters, or training in domestic violence and trauma, since they will only serve a limited term before returning to the court they were transferred from. A survivor may have the same case heard by multiple judges over months or years: I have one client whose case was filed four years ago, and has been heard before six different judges, including separate trials before two different judges. 5) Lack of administrative oversight of judges, uniform court rules, and transparent mechanisms to report misconduct, and a viable appellate mechanism for interim decisions; and 6) insufficient training of judges, court personnel, and other stakeholders in family law, domestic violence and trauma.

All of this results in grave safety risks to survivors and their children—such as the tragic case that is the namesake for Kyra's Law. Two-year-old Kyra Franchetti's murder by her father was one of the devastating consequences of the broken family court system: she was shot to death by her father as she slept, and he went on to set the house on fire and kill himself during an unsupervised, court-approved visit. Her mother had strenuously objected to overnight visitation for Kyra, but the court sided with her father. Under the law, courts would need to consider past and present abuse committed by the parent against the child, violence committed by the parent to their partner or

other children in the home, and if the child is actively fearful of the parent and their behavior. We are grateful to the Senate, and particularly Senator Skoufis for sponsoring the bill in the 2023 legislative session, and we hope both houses of the legislature will see through its passage in 2024.

The overall list of Family Court reforms Sanctuary and advocates statewide seek is extensive, and was articulated in detail at the Family Law Conference and in the conference report released last month. The court urgently needs to enhance its training and assignment of judges and court personnel: for instance, requiring the same training in domestic violence, trauma, lethality factors, coercive control, and litigation abuse for all judges hearing family law cases, regardless of the duration of their assignment. But the court also must end the practice of rotating judges through family court on temporary assignments, and invest resources into an expanded family court judiciary. The rotation model does not provide equitable justice for survivors, and it is not a sustainable model. In order to fully take into account safety issues, the court needs to establish a transparent fatality review process for both child and adult fatalities.

Custody and visitation laws and policies also badly need to change. Judges should conduct preliminary safety assessments prioritizing the safety of children and considering lethality factors before issuing temporary custody and visitation orders. They should consider best interest factors that discourage disrupting primary caretaking custody and prioritize protecting the safety and emotional well-being of the child. Courts need to put an end to the practice of considering the widely discredited concept of “parental alienation” in domestic violence cases: it is this concept on which Kyra’s father’s case hinged, resulting in the horrific murder of a 2-year-old child. The legislature must also amend the social services law definition of domestic violence to encompass coercive control; and include it in the family offenses enumerated in the Family Court Act. Finally, we applaud the findings and recommendations of the Working Group on the Future of Supervised Visitation in New York State, and support the allocation of resources to provide safe, effective supervised visitation and exchanges of children throughout the state.

We know the court system and the Family Court are capable of making these changes. There are scores of outstanding, dedicated public servants in the family court judiciary and the Office of Court Administration, and we are enormously grateful for their efforts to help thousands of abuse survivors and for their active participation in this conversation, including our conference. The

family court commissioned the Johnson Report, indicating a willingness to make substantive changes.

Above all, the family court system sorely needs substantial additional investment—there is good reason it is perceived as the poor people’s court. Beyond the race, class, and gender bias so evident across many decades, the family court’s human resources and physical infrastructure are grossly under-resourced: dilapidated courthouses, an antiquated OCA website, poorly run virtual proceedings, and scant availability of interpreters make already-traumatic legal struggles all the more challenging, confusing, and grim for survivors. As always, it comes down to what the State decides to make a fiscal priority.

These changes are long overdue: it’s no exaggeration to say that they date back many decades. Now, thanks to the work of advocates statewide, including court officials, we have a clear blueprint for change. I encourage you all to read the Conference Report (attached) and its recommendations, outlined in this testimony and attached herewith. Kyra is now one of 23 children murdered by their own parent during a custody case, separation or divorce in New York in the past six years alone. I hope you will help us honor their memories by helping us work toward real, lasting reform.

Thank you for the opportunity to testify today, and thank you for casting light on the critical need for reform in the family courts.