



The New York State Senate
Senate Standing Committee on Judiciary
Senate Standing Committee on Children and Families
TOPIC: Oversight of the Family Court throughout NYS
Wednesday, November 1, 2023
250 Broadway, 19th Floor Hearing Room

Testimony by
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Good morning Chair Hoylman-Sigal, Chair Brisport, and members of the Senate Standing Committees on Judiciary and Children and Families. Thank you for calling this hearing and inviting me to testify on behalf of the children and families we serve.

I am Ronald E. Richter, CEO and Executive Director of JCCA. I have been honored to serve previously as New York City's ACS Commissioner and as a judge of the Family Court. I have spent much of my career either practicing in Family Court or working in other roles on behalf of children and families with active family court cases. Today I am here to highlight some institutional shortcomings of the Family Court that ill-serve the children and families of New York State.

JCCA is a child and family services agency that works with about 17,000 of New York State's children and families each year. We provide foster and residential care, preventive services, educational assistance and remediation, and behavioral health services. Many of the children and families served by JCCA are parties in matters before the Family Court, where their cases involve child abuse and neglect, juvenile delinquency, Persons in Need of Supervision and termination of parental rights. Family court judges, who have the highest caseloads of any other court jurisdiction, must be thorough and patient in all of these matters – qualities that are not improved by speed and expediency.

Hardships experienced by children and families in the Family Court should also be viewed through the lens of racial equity. Communities of color are over-represented in child welfare, criminal justice, and family court systems. Improving processes and increasing resources would help to address inequities that harm the most vulnerable children and families and create a more effective system of addressing the complicated issues that come before the Family Court.

I. Court Availability & Schedule

The Family Court's hours and availability are designed for court staff, as opposed to the individuals and families who come before the Family Court Judges. Currently, Family Court hours of operation are 9AM to 5PM, much shorter than civil and criminal courts, which remain open until 1AM on most, if not all, days. This schedule limits the Court's ability to respond to emergency situations, where delays can cause further harm or burden to families. If a New Yorker needs an Order of Protection, they should not be forced to wait until court re-opens the following day. The schedule also reduces the amount of time judges can spend considering the needs of each family that appears before them. We support current efforts to change the

Family Court's hours, such as Senator Felder's bill, S.2355 to extend the hours of operation of Family Court until midnight, once a week, in three of the NYC boroughs.¹

It is also not an equitable structure for our young people and hard-working families that may have to choose between going to court and going to work or school. Extended hours would help ease this burden, especially among low-income communities and communities of color.

The Family Court strongly discourages overtime. Staff begin to wind down for the day at 4:30pm, and if a hearing extends past that time, approval from the Supervising Judge is needed. Consider a 1027 hearing where a child was removed without a court order. No judge wants to adjourn that hearing if 4:30pm is approaching. Where does the child in question go that night? The court's operational challenges deeply add to the trauma, frustration, and helplessness experienced by children and their parents, even if for only one night.

Family court availability also contributes to families "languishing" in the child welfare system: Understandably, judges prioritize emergent cases where a child's safety is at risk. But with the court's limited availability, these emergency proceedings result in adjournments to scheduled cases where a child is already safe. These delays in permanency and other proceedings compound the trauma and uncertainty of family court and child welfare involvement for far too many vulnerable New York City children.

II. Orders to Remove Children

According to the Administration for Children's Services FLASH Report, 50% of children removed from their homes, are removed without a court order.² Most in the child welfare community share the view that we want to eliminate unnecessary removals. Currently many removals are

¹ See S2355 (Felder)/A1785 (D. Rosenthal) at <https://www.nysenate.gov/legislation/bills/2023/s2355>

² See <https://www.nyc.gov/assets/acs/pdf/data-analysis/flashReports/2023/03.pdf> at p.12.

driven by institutional logistics. If a call is made to the State Central Register in the afternoon, by the time a Child Protective Specialist is assigned the case, they will likely visit the family in the evening, after court is closed. Although the law provides for a judge to determine whether there is *imminent* risk to a child prior to removal, in New York it has become operationally easy and standard for a judge to support an order *after* removal. This commonplace acceptance of removals without seeking prior court approval is due in part to the limited hours that judges are available. Expanding judges' ability to decide imminent risk would allow for more careful consideration of each circumstance, and potentially reduce unnecessary removals.

III. Family Court Interpreters

As a former Judge in Queens Family Court, I can attest to the nickname that Queens is the "World's Borough." There are 800 languages spoken in New York City, and Queens has the greatest diversity.³ Yet, despite the widespread acknowledgement that Queens is one of the most linguistically diverse places in the country, and despite New York City's ever-increasing diversity overall, our Family Courts struggle to adequately provide interpreters. 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.

Moreover, the same body of Family Court interpreters are also called to appear in the Supreme Court. However, Supreme Court cases take priority to Family Court cases, so even if a Family Court hearing was carefully scheduled around interpreter availability, on the day of the hearing, the interpreter can be called to appear in Supreme Court instead. Increasing interpreters' salaries and budgeting for additional interpreters—will improve recruitment, retention, and availability of interpreters to respondents who require them.

³ See <https://www.businessinsider.com/queens-languages-map-2017-2>

IV. Remote Hearings

Since the pandemic, remote hearings have become increasingly popular, but there is wide discrepancy in how they are used. Rather than issuing institutional rules to govern the use of remote hearings, individual judges and referees are forging their own paths, creating inequity and unpredictability among individuals and families in Family Court. Moreover, for individuals whose cases are held by remote hearings, there is widespread variation in their access to reliable technology and appropriate meeting spaces. A parent should not have to contend with the noisy background of a crowded McDonald's with free WiFi while participating in a Family Court Hearing. New York State should have kiosks in the local community with a confidential, technologically equipped space that honors the importance of the relationships and decisions addressed in these hearings.

Conclusion

Thank you for exploring the operational challenges in family court and the dramatic impact these institutional shortcomings have on children and families. There is no question that family court judges, referees and court staff do critically important, difficult work. In partnership with the Office of Court Administration and so many other family court participants, we can strengthen the system for families.