

New York State Bar Association

One Elk Street, Albany, New York 12207 • 518/463-3200 • <http://www.nysba.org>



Memorandum in Support

NYSBA Memorandum #17

February 21, 2014

S. 6351
A. 8551

By: BUDGET
By: BUDGET

Senate Committee: Finance
Assembly Committee: Ways and Means

THE NEW YORK STATE BAR ASSOCIATION **SUPPORTS INCREASING THE NUMBER** **OF FAMILY COURT JUDGES**

The State Bar strongly supports increasing the number of Family Court judges. Indeed, this issue is among our legislative priorities for 2014. The lack of judges to hear the overwhelming number of cases involving the safety and well-being of children results in long delays, piecemeal trials, uneven access to justice and a public perception that the forum is ineffectual and unworthy of community confidence.

In 2010, the Task Force on Family Court of the New York State Bar Association was appointed by then President Stephen P. Younger to examine the challenges that New York Family Courts face and recommend measures that would better enable the courts to meet the demands placed upon them. In forming the Task Force, President Younger stated:

There may be no place where shaping the future and restoring confidence in our government institutions comes together as clearly as in our family court system. To thousands of New Yorkers, family courts are the face of our legal system but, unfortunately, with overcrowded dockets, too few judges, and far too many delays, these courts resemble hospital emergency rooms and our family law attorneys are forced to perform triage.

Family Court is the place where decisions are made about children, often when parents or other loved ones can't or won't make the difficult decisions for themselves. The court determines paternity for children born outside of marriage. For some, the family-tree begins with adoption and many adoptions are finalized in Family Court. When parents, married or unmarried, separate from one another, their issues of child custody, visitation and child support are heard in Family Court. Issues of family violence are heard in Family Court. When children are accused of committing crimes, their cases are heard in Family Court. Children who are truant or accused of running wild, beyond their parents' control, are petitioned into Family Court. Child abuse and neglect cases are heard in Family Court. Parents' rights to their children may be terminated in Family Court. The court oversees cases for children throughout the children's stay in foster care.

The issues are as personal and serious as they come -- Family Court determines the fate of our children. Delay is taken most seriously in Family Court. An infant who is removed from his or her mother at birth and spends the first three years of life in foster care will be shaped forever by the experience.

For those who have never been to Family Court and wonder why we they should care about what goes on there, you need only observe any classroom in any community in New York State. As any school teacher knows, trouble rides the school bus. A child, whose family has problems, brings his or her problems with him or her on the bus and into the classroom. The problems surface on the playground and at childcare. One child's problems affect all of the children around him or her. The quality of decisions made in Family Court affects all of us. It affects the quality of life in a community. The conditions and circumstances in which serious decision-making occurs are an issue for all of us.

Family Court has jurisdiction over child custody and visitation cases, child and spousal support cases, adoptions, proceedings to determine paternity of children, family offenses, PINS and juvenile delinquency matters, child abuse and neglect cases, termination of parental rights petitions and foster care reviews. The safety and well-being of children are at the heart of these controversies.

The proposed Judiciary budget addresses the critical and widely recognized need for additional Family Court judges.

As noted in the Judiciary budget submission, over the past three decades, the caseload of the Family Court has nearly doubled, from 366,000 filings a year in 1983 to more than 698,000 at the end of 2013. Moreover, over the years new statutory requirements, such as database checks in custody and visitation cases, and a mandated increase in hearings in permanency cases, have greatly increased the time and resources required by each case. Despite this dramatic growth in the work of the Family Court, few new Family Court judgeships have been established.

The Judiciary budget submission went on to state that over the past 30 years, while the filings have increased by 90 percent, the number of Family Court judgeships has been increased by only 8.8 percent. None have been created in New York City since 1990, and only one was created anywhere in the State in the last decade.

Lengthy delays in hearing and disposing of cases, multiple adjournments as well as the inability to hear cases to conclusion on consecutive days are systemic problems that result from too few judges. Without an increase in the number of Family Court judges, the system-wide challenges of the court will not be fully or successfully addressed. To abide a system which is understaffed is to accede to the conclusion that problems of child welfare and family violence are unimportant and unworthy of serious government attention.

CONCLUSION

Based on the foregoing, the New York State Bar Association **SUPPORTS** increasing the number of Family Court judges.