



**RECOMMENDATIONS ON FAMILY COURTS TO THE
NY SENATE STANDING COMMITTEE ON JUDICIARY AND
NY SENATE STANDING COMMITTEE ON CHILDREN AND FAMILIES**

November 1, 2023

INVESTIGATION

We ask the New York Senate Standing Committees on the Judiciary and Children and Families to request, and support, a Moreland Commission Investigation by the Governor, as well as to conduct their own joint committee investigation under Article 4 of the Legislative Law, with particular scrutiny on the following:

1. Court practices which-place an unbearable burden of process on New York families;
2. Practices of coercion of parents and children to give up their legal rights, including through threats-of loss of property, possible physical harm, and threats to a child's well-being;
3. Practices of discrimination against persons on the basis of sex and source of income;
4. Practices of channeling court appointments to attorneys for children and forensic evaluators known to reliably deliver predetermined opinions or coerced settlements favoring more-moned parents over primary caregiver parents; and,
5. The legal compliance and effectiveness of child custody determination processes and outcomes serve the best interests of children.

LEGISLATION

We ask that you introduce, pass and enforce the following legislation with *meaningful, automatic sanctions on all parties who violate this law* and annual publication of the names of parties in violation:

1. **Judicial Note of Parental Roles at Preliminary Conferences:** Mandate that at every preliminary conference involving child custody or visitation, the court must take judicial notice of the party's pre-existing caretaking and decision making roles for the children prior to the

separation or child custody motion, as well as the desired legal and physical custody and visitation that each parent is seeking;

2. **Mandatory Six-Month Child Custody Determinations, with Automatic Sanctions for Non-Compliance:** Amend and enforce Section 205.14 of the Uniform Rules for Family Court to mandate that judges deliver child custody and visitation determinations *within six months of preliminary conference* in any contested child custody case. If the case includes an allegation of abuse or safety concern, the case may only be extended if the allegation meets domestic violence or unfit parent standards and includes evidence;
3. **Time Limits for TRO Hearings:** Mandating that every temporary restraining order (TRO) issued by a court that involves a party's access to the children must be scheduled for a fact finding hearing within 10 days of the order of the TRO, and that all others within 30 days of the TRO.
4. **Whistleblower Hotline:** Establishing a dedicated Family Court whistleblower hotline for reports of unethical or illegal conduct by court professionals, that is not reported to the New York Judiciary.
5. **Prohibit Ordered "Parent Coordinators":** Prohibit judges from ordering parents to use "parent coordinators" who do not coordinate anything but rather unconstitutionally usurp parental authority.
6. **Independent Compliance Body:** Establish an independent body to monitor and report on the courts' compliance with New York state law;
7. **Cameras in Courtrooms:** Mandate the installation of cameras in all courtrooms, positioned to capture all verbal and non-verbal communication within the courtroom, and with video and audio recordings accessible for review by an independent body external, to the New York Judiciary, during routine audits;
8. **Prohibit Conferences Excluding Litigants:** Prohibiting attorneys-only conferences and phone calls with referees or judges in which litigants are not both present, for the purpose of preventing imposition of predetermined non-evidentiary outcomes;

9. **Court Appointee Compensation:** Prohibiting court appointee compensation without prior approval by the court and mandating simultaneous reporting of that compensation to Part 36 database administrators. Mandating that court appointees include the words “This is not a bill” prominently at the top of any communication pertaining to billing to litigants where compensation has not yet been approved by the court;
10. **Access to both Online and Paper Court Filings:** Mandating equal access by litigants to their own online and paper case filings regardless of whether they have legal representation;
11. **Data Collection and Collection:** Mandate collection and publication of easily accessible data on the following:
 - a. On a contemporaneous and annual basis, the days to disposition in each court of child custody cases from preliminary conference to judicial decision or settlement of child custody and visitation; and the number of days between a child custody order and renewed custody litigation;
 - b. On an annual basis, the tabulation of the number of appointments within each court to attorneys for children and forensic evaluators, and percentage of each appointee’s appointments relative to total eligible appointees;
 - c. On a contemporaneous and annual basis, data tracking billing at the time of the billing by family court professionals (including attorneys, forensic evaluators, etc).
 - d. On an annual basis, the percentage of child custody determinations in each court in which the outcome is that the more monied party has primary custody, and in which the former primary caregiver parent no longer has custody.