

Christine McCue, Esq. (1/3)

Thank you for the opportunity to lend my words to this discussion. Although I am no Pollyanna, I do hope that my words are heard, someone seeks to understand them, and act upon them. I have been a New York State Family Court attorney for over 20 years. I have seen what takes place in family court. I have seen the toll family court itself takes on children and litigants, not to mention the attorneys themselves. It is a nightmare system.

Even more importantly than being an attorney, I am a person who first entered family court as a litigant when my child was 3 months old. She is now 27. She and I were "in the system" for nearly 18 years. I know of what I speak. Oddly, or perhaps not so oddly, no one in the system has ever wanted to listen. I'll try to make my comments as brief as any attorney possibly can.

You acknowledge in your Notice of Joint Public Hearing that there is a problem with family court. Yes, you are right. Now let's fix it. Really fix it. By allowing it to remain un-fixed, New York State is complicit in the continued abuse that family court imposes on families one generation after another. By failing to fix something you know is wrong, you become part of the problem.

So, how to fix it? That question can only be answered by first breaking down each type of family court case and then developing a repair plan. Each type of family court case has its own nuances. Clumping one type of family court case with different family court cases means that nuances are ignored in favor of the bigger picture of the 'let's just get this case off the docket' mentality. Each type of case must be examined independently of every other type of case handled by family court. A custody/visitation case is very different than an adoption of a child out of foster care case. How best to handle a juvenile delinquency case has no relevancy to a case involving assuring a non-custodial parent pays their proper amount of child support.

Once you have each type of family court case sectioned out, then and only then, can you fix family court by doing the following: **listen and include**.

You will only fix family court by listening to those who have survived it and including them in the decision-making process to fix it. It is such a simple concept. Any survivor of family court will be able to point out the aspects that did not work and why they did not work. Family court judges and attorneys cannot do that. To judges and attorneys (and I can say this as a family court attorney) as long as a decision is rendered or an agreement is settled upon, then the system worked. Not necessarily so for the family, however. This is evident in the vast amount of repeat litigants we see through the years, and even the repeated patterns with their next generation. Please stop only listening to family court judges and attorneys about what is wrong with family court. Start listening to litigants who have gone through the family court process and survived it. Start listening to children who have aged out of the system about what they experienced. Why has there not been a years-long longitudinal study of the effects of family court on children? On litigants? Why? Because they are not attorneys or judges. We in the legal system value our own

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voices above all and that is a terrible mistake that has had decades-long negative effects on the families of New York State.

I must admit, I do not know if information from those who have lived through family court is what you are looking for with this joint hearing. If it is, you are missing one important aspect: without people listening and reading those testimonies who can understand what they are hearing and reading, survivor information will not land correctly. In other words, unless you have a committee of family court survivors who are hearing and reading all of this testimony, nothing will get fixed. Not having survivors as part of the repair process is the quickest way to not fixing it at all.

That is the key you are looking for in the ever-present search for a better family court: survivors. People often dismiss out of hand anecdotes and personal narratives about family court. There is a dismissive quality to the "No, thank you. We're not interested in hearing about that" attitude of the legal profession, and society in general. Family court is something that is whispered about in society. Family court is considered the "pink ghetto" of the legal profession. I, as someone who was living with family court throughout most of my legal professional career, had to hide my family court involvement as much as possible. Why? Because of the terrible repercussions anyone who is in family court, especially a woman (sorry to break it to you), lives with and thus those repercussions would have negatively affected my professional reputation. It is as if family court is the known-secret humiliation of the legal profession and of society. It is something people look down on and speak about in hushed tones, as if embarrassed by it. Family court is the "other" until you yourself or someone you love is in it; then it is a living hell no one can believe actually happens in a civilized society.

There are many specific issues that I could attempt to highlight¹ but I fear you will not even read this far in my testimony; eyes glazing over at the continued writing. Therefore, I will leave it with the most important thing that needs to be done to fix family court and at the risk of repeating myself I say: **listen and include**.

Form whatever committees need to be formed to study the horror of family court but include survivors in addition to lawyers, judges, etc. Harvest as many anecdotes from as many survivors who are willing to provide their experiences to you. You will see a pattern, I promise. Study how

¹ Such as, but not limited to, 1) judges have too much discretion which often leads to them believing they "know what needs to happen" in any particular case and therefore they reverse engineer their decision to comport with the requisite legal standard no matter what they hear in court or allow to be heard in court, 2) many family court judges are too inexperienced in other important areas regarding today's families, i.e. personality disorders and abuse, 3) family court's dismissive and demeaning view of family court litigants, i.e. "Everyone lies in family court", "Garbage in-Garbage out", "They just need to grow up", 4) lack of consequences in family court, i.e. when a litigant or their attorney can literally lie to the judge and have that lie proven to be a lie within 30 seconds by opposing counsel with evidence and yet the judge just shakes their head and that is it, what does that say to everyone in that courtroom?, 5) family law as written is often not how it is applied in court, and 6) I could go on and on...and on.

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those decisions made each and every day in family court actually played out over the years on the lives of those litigants and children. You cannot assess the outcomes of family court unless you study the actual long-term effects on those forced to live with the judges' decisions.

Family court is a messy court. It always has been and it always will be because family court deals with the lives of litigants and their children. Life is messy. Rather than a court that is "less-than" the other courts in New York State, as so many people view it, it should be a court that is held in even higher regard. We are a service court. We must do *for* families, not *to* families - which is, unfortunately, how family court currently interacts with New York State families. What we do has a vital and long-lasting effect on the mental, emotional, and physical health of those we serve. Why then is every other court in New York State held in higher esteem? Perhaps if we get our priorities straight, the families of New York State will be better served.

I can tell you that my personal experiences with family court affected me deeply; they still do all these years later. I can say with head held high that my professional experiences in family court have been guided by my better understanding of what these parents and children are actually going through. It is time to stop dismissing the voices of the litigants and children who are suffering through family court year after year.

Listen and include.