

March 11, 2024

Contact:

Redmond Haskins
Director of Media Relations
The Legal Aid Society
rhaskins@legal-aid.org
929.441.2384

*****FOR IMMEDIATE RELEASE*****

Attorneys for Children Providers Release White Paper on Family Court in Crisis

Attorneys Call on Albany to Address Years of Underfunding and Crushing Workloads for Attorneys Serving Children Throughout NYS

AFCs Also Urge Lawmakers to Appropriate \$60 Million in the FY25 Budget to Right-Size AFC Programs

(NEW YORK, NY) - Attorneys for Children (AFC) providers released a [white paper](#) today detailing the devastating impact that years of underfunding and high workloads have had on AFC providers - organizations that represent children in child abuse and neglect cases, and other life-changing family court proceedings - and how this imperils children's access to justice.

The AFC providers also called on Albany lawmakers to appropriate \$60 million in the Fiscal Year 2025 budget to right-size AFC programs.

The white paper, entitled "Legal Representation of Children in New York State: The Crisis of Chronic Underfunding and High Workloads for Attorneys For the Child in Family Court" was authored by The Legal Aid Society, the Legal Aid Society of Suffolk County, Lawyers For Children, the Legal Aid Bureau of Buffalo, Citizens Concerned for Children, Children's Rights Society, Sullivan Trail Legal Society, Inc., Children's Law Center, the Legal Aid Society of Rockland County, the Legal Aid Society of Rochester and Brooklyn Defender Services.

The role of AFCs is central to the critical and profound work of the Family Court. Children are impacted by almost all litigation before the Family Court judiciary. These children deserve and are entitled to an attorney, supported by social workers, paralegals, and other professionals, who can spend the time necessary to vigorously represent their interests and step in to support them in ways that are often not achievable by the court process alone or the agencies tasked with child protection.

Devastating Impact of Years Underfunding on AFCs

AFC Offices have suffered crippling one or two-percent budget increases for close to two decades while caseloads have increased in number and complexity, and experienced AFCs have been resigning in record numbers. Despite the budget increases for AFC Offices in FY 2023-2024, salaries of attorneys in most AFC offices continue to lag far behind those of government counterparts and other civil legal service providers. As a consequence of low salaries and brutally high caseloads, AFC offices remain saddled with unfilled vacancies.

NYS Fiscal Year 25 Budget Request

The AFC Offices support enactment of the proposed New York State Office of Court Administration's (OCA) 2024-2025 budget and acknowledge the inclusion of total AFC funding of \$205 million, representing an increase of \$19.7 million dollars over FY 2023-24.

While this provides a necessary first step in rectifying decades of underfunding and rollbacks to funding that occurred during the pandemic, the AFC Offices have calculated that initial additional funding of at least \$50,000,000 is required to achieve the staffing levels and salaries necessary to reduce case caps from 150 children per attorney, down to 75 cases in abuse, neglect, custody and related proceedings by the signatories to this document. Additional funding of \$10,000,000 is also necessary to enhance staffing and begin to reduce caseloads in delinquency proceedings.

In sum, an initial infusion of \$60,000,000 is needed to right-size AFC programs, provide livable wages, and create an environment where attorneys and other staff can afford to stay in this important work and develop the skills they need to ensure our clients receive justice and fairness in our courts.

Crushing Workloads

Section 127.5 of the Rules of the Chief Administrator of the Court currently sets a cap for attorneys representing children at 150 children per attorney at any given time. Since many children are involved in multiple proceedings, each attorney will inevitably represent children in many more than 150 open dockets or petitions, which may be pending simultaneously in different courtrooms in Family Court.

Because each AFC office is committed to continuity of representation, this means that when necessary the same AFC will represent the same client in multiple courtrooms in those jurisdictions that have specialized parts that hear only a certain category of cases. It may also mean following a case to another courthouse if a judge is transferred and takes cases with them that are already underway. Moreover, different dockets indicate different types of cases that require unique preparation and legal arguments.

OCA Must Reduce AFC Caseload Standard

This caseload standard, issued over 15 years ago, must be revised by the New York State Office of Court Administration (OCA), and a new interim standard of 75 dockets created that will immediately cut the caseload expectations for AFCs in half and set a clear course for further caseload reductions in the next two fiscal years.

It is only by making both the transition to a caseload standard based on the number of cases (dockets) rather than the number of children and by cutting caseloads in half to 75, that AFC's workloads will begin to be comparable to those of counsel for parents in the same proceedings. This initial caseload reduction must also recognize the unique posture of delinquency and PINS cases, which continue to demand a much lower active caseload in order to provide the zealous advocacy required in these quasi-criminal cases.

Over the next fiscal year, a plan must be put in place to further reduce AFC caseloads to best reflect the different workloads involved in the cases where AFCs represent children in Family Court and to provide funding for AFC offices that support this workload standard.

“Years of underfunding and high caseloads have imperiled AFCs’ ability to provide New York State’s most vulnerable children with necessary and constitutionally mandated legal services,” said **Dawne Mitchell, Chief Attorney of the Juvenile Rights Practice at The Legal Aid Society**. “Albany lawmakers should step forward to allocate \$60 million in the FY25 budget to help ensure that every child mired in family court receives the legal resources that they are entitled to. Without reform of the caseload standard and without these necessary funds, the State will perpetuate the imbalance in the juvenile legal system that favors one side of the court process to the detriment of AFCs and children’s access to justice.”

“The vulnerable children whom our offices represent pay the largest price for the chronic underfunding of AFC work. Our child clients face the double burden of family instability and trauma caused by court involvement. Each and every one of them deserves the zealous advocacy and access to wrap-around services that only fully-funded, adequately-staffed AFC offices can offer. The current and future well-being of our clients and communities demand that children's voices be heard,” said **Liberty Aldrich, Executive Director of The Children's Law Center.**

“Equitable access to justice requires equitable access to legal representation. Adding more Family Court judges and addressing the salary needs of 18-b and parent attorneys is essential, but decades of overlooking the funding required to support the holistic representation of children by AFC offices has created a caseload and salary crisis that must end now,” said **Karen Freedman, President of Lawyers For Children.** “We call on NYS lawmakers to provide the \$60,000,000 needed to terminate the outdated AFC funding system that condones legal representation of children in upwards of 150 cases at any given time. Equitable access to justice for children demands equitable funding for AFC offices.”

“This funding is needed to ensure all children and adolescents are provided with an attorney who has the time to get to know them and make sure their voice is heard in family court,” **Lisa Schreibersdorf, Executive Director of Brooklyn Defenders.** “The dire consequences of court involvement for young people are compounded when they do not receive due process or the support and services they need and deserve. Representation from a zealous attorney with a manageable caseload is critical to guarantee the best outcomes in a case and for a young person’s future.”

“There is no more important judicial function than protecting the rights of children and families. Courts cannot meet that mandate when the attorneys who appear before them have unmanageable workloads. Reducing the caseloads of attorneys for children is a necessary step toward building the Family Courts that families deserve,” said **Christine Gottlieb, Director, NYU School of Law Family Defense Clinic.**

“The Attorney for the Child plays a unique role in our court system providing zealous and compassionate advocacy to promote family stability and minimize trauma for youth engaged in child welfare, custody and juvenile justice cases. We urge state lawmakers to prioritize AFC funding in FY25 to acknowledge the integral work of these attorneys, address historic underfunding and ensure equal access to justice for children and adolescents,” said **Laurette Mulry, Attorney in Charge of the Legal Aid Society of Suffolk County.**

“Every day, across the State, attorneys for children at legal service agencies step into courtrooms to elevate the voice and needs of thousands of children in high stake matters, where their safety, well-being and ties to family lie in the balance. It takes only one court decision to affect the entire trajectory of a child’s life – and one committed attorney for the child to make the difference. We are now at a critical crossroad. To truly ensure vulnerable children access to justice and high quality representation, now is the time for the State to appropriately fund our attorneys for children programs and reduce client caseloads,” said **Judith Gerber, Chief Attorney of the Attorneys for Children Unit at the Legal Aid Bureau of Buffalo, Inc.**

###