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New York State Senate Standing Committee on Judiciary
Senator Brad Hoylman-Sigal, Chair

New York State Senate Standing Committee on Children and Families
Senator Jabari Brisport, Chair

Safe Horizon's Testimony on
New York State Family Court

November 1, 2023

Good afternoon and thank you, Chair Hoylman-Sigal and Chair Brisport, for the opportunity to provide testimony before the Senate Standing Committees on Judiciary and Children & Families. My name is Stacy Schechter, and I am Director of the Domestic Violence Law Project at Safe Horizon, the nation's largest non-profit victim services organization. Safe Horizon offers a client-centered, trauma-informed response to 250,000 New Yorkers each year who have experienced violence or abuse, and we acknowledge the many ways systemic racism impacts the lives of our clients and our staff.

Safe Horizon's Domestic Violence Law Project (DVLP) provides direct legal advocacy and representation to indigent victims of domestic violence in New York City's Family, Supreme, & Integrated Domestic Violence Courts. We assist with orders of protection, child support, custody, visitation, and uncontested divorce proceedings. We also run a legal helpline that provides information, referrals, and assistance to domestic violence survivors. Additionally, Safe Horizon has programs in all of New York City's five Family Courts, staffed by case managers and social workers who assist survivors of domestic and family violence with understanding their options and assisting with navigating Family Court. In fact, when the courts were closed during the COVID "PAUSE," our DVLP and Family Court Programs, as well as staff from other civil legal programs, assisted survivors with petitioning for emergency orders when the courts were otherwise closed. Lastly, our Family Court Programs provide supervised visitation in four of New York City's five Family Courts. Therefore, we and our sibling organizations deeply understand what is and is not working in our Family Courts.

Families across New York State, especially survivors of domestic and family violence, depend on our Family Court system to adjudicate important, often very complex and very personal, legal issues. We all wish for our Family Court system to function in a professional manner and to make what are fundamentally life-changing decisions in a judicious and timely manner. However, our Family Courts are not living up to what we would expect from such an essential part of our judicial system. Our DVLP and Family Court Programs would like to highlight the following challenges:

1. Funding for Attorneys and Other Court-Based Programs to Support Survivors

- The court system itself needs more funding, of course, but also the nonprofit organizations that provide direct assistance, advice, and representation to survivors desperately need more funding.
- To help ensure domestic violence survivors can be successful in seeking an order of protection, custody, visitation, or child support, they need attorneys who understand the complexities of domestic violence and can navigate our Family Courts. It is also beneficial for our clients when the opposing party (typically their abusive partner/person causing them harm) also has legal representation, as this can create a buffer between the parties and generally reduce the likelihood of the abusive partner weaponizing the court.
- To help sustain the health and vitality of Safe Horizon and our colleagues in the nonprofit legal services community, the State must include an automatic yearly COLA on state contracts.

2. Bias and Dehumanizing Culture of Family Court

- Experts have been sounding the alarm about racial biases in the Family Court system for decades, and yet little has changed. From judges to clerks to court officers, Black and brown

litigants face deep-rooted biases even as they seek safety and justice from the courts. There's no question these systems would look very different if the majority of litigants were White.

- Judges have enormous discretion to make life-altering decisions for litigants, which is why we need judges who truly understand the dynamics of domestic and family violence. One of the recommendations we made to Mayor-elect Adams was to select jurists who “understand the complex decisions that survivors make for themselves and their families, and work with them and their attorneys to craft decisions that increase paths to safety and healing.” Although the City has limited power and oversight over our court system, this is one area where our City's leadership can do more. Stop placing jurists who do not want to be in Family Court in Family Court. New York's families deserve jurists who want to be on the bench in Family Court, and survivors deserve judges who actually care about survivors and understand domestic, intimate partner, and family violence.

- We recommend better screening around domestic violence and family violence when reviewing applicants for Family Court positions. The Family Courts have current vacancies, and we recommend that only applicants with practical experience are appointed.

- Elected civil court judges temporarily fill vacancies in Family Court and do not want to be there. They also have no training or experience in family law.

- Seeking relief in Family Court can be re-traumatizing for survivors of domestic and family violence. Litigants must sit in a courtroom just a few feet away from the person who caused them harm. They are subject to cross-examination by opposing counsel who seek to cast aspersions on our clients' integrity. When we factor in the racial harm that so many of our clients experience, it's no wonder many believe the entire system is rigged against them. New York owes survivors the opportunity to seek justice in a fair, impartial setting free of overt bias and discrimination.

- There is no oversight over individual jurists, even when we know that a particular jurist is causing harm to our clients and other survivors.

- We must address the dehumanizing culture of Family Court. Our clients, our advocates, and our attorneys also experience disrespect and worse daily. The system should institute changes as simple as instructing jurists to refer to litigants by their name rather than “mom” or “dad.” New Yorkers seeking help from our Family Courts should feel seen and should feel safe asking questions to judges, clerks, court officers, and any other court personnel.

- We also recommend institutionalized court watchers to ensure better accountability. The Family Courts are public institutions, but it is our experience that individual court personnel will not let the public in. Family Courts should let people observe what should be public, as long as we are taking into consideration the safety concerns of individual survivors and children.

- Training for Family Court jurists and personnel can be much better; however, we must shift the culture of Family Court to treat families with humanity and respect and to take the safety concerns of survivors and their children seriously.

- Safe Horizon supports **A.3346A/S.3170A**, referred to as **Kyra's Law** (Hevesi/Skoufis). We are alarmed by the senseless, preventable murders of children whose safety was not prioritized by the very courts entrusted to protect them. This commonsense legislation will:

- require courts to conduct a review of any findings or allegations of child abuse, domestic violence, heightened danger, and risk of lethality before issuing permanent and initial orders of custody or visitation, or successive temporary orders of custody or visitation;

- require courts to set forth the reasons for their decision-making on the record and in writing and allow parties to appeal any orders of custody or visitation on an expedited timeframe;
- prioritize the safety of the child when evaluating best interest factors of the child for issuance of a final order of custody or visitation;
- in cases involving domestic violence or child abuse, restrict either party from alleging the other parent is intentionally alienating the child from them; and,
- enhance current training requirements for judges, referees, and other hearing officers presiding over child custody cases where domestic violence or child abuse is alleged.

3. Options for Survivors

- Survivors understand their safety better than anybody else. However, our Family Courts offer limited and inconsistent options for survivors to navigate their safety. When the courts were closed during COVID, we saw that some survivors deeply appreciated being able to appear in court virtually, and we also saw that other survivors wished that they could appear in court. We **know** that the courts can provide options, allowing survivors to appear in court in person or virtually, but the current system does not provide those options. In our experience, there is inconsistency between boroughs, and even between judges in the same courthouse.
- We recommend that judges be willing to grant virtual proceedings across the board in all proceedings or at the very least when requested on behalf of a survivor of domestic, intimate partner, or family violence. We also recommend uniform rules and practice across the 5 boroughs rather than have each supervising judge create their own policies.
- The ability to attend a court appearance virtually is also an economic issue, as survivors and other litigants should not have to take an entire day off work or pay for childcare, only to wait in court all day for an otherwise very brief appearance. This is especially salient for intake and conferences.
- We also recommend a uniform way of reaching the courts when technological issues arise or when litigants have a question. In our experience, links to virtual appearances can be wrong or can change at the last minute. It is nearly impossible to reach court personnel to request the correct or updated link. This is especially chilling for pro se litigants who may not have personal contacts in the Family Court who can help us resolve these issues.

4. Court Resources

- We need the State to invest in filling vacancies in the Family Courts, including judges, clerks, child support magistrates, and other essential personnel. Litigants face repeated delays due to these vacancies. Additionally, the State should continue to increase the number of judges, as the backlog of cases continues to plague our courts.
- When Civil Court judges temporarily fill Family Court vacancies, they do not take their cases with them. This cycling in and out of jurists expands the backlog.
- Family Court cases can take years. This is deeply troubling for survivors, who feel like their lives are on pause or are bogged down by the constant back and forth to court.
 - Safe Horizon supports **A. 5735/S. 5269 (Reyes/ Persaud)**, which would authorize expedited settlement conference processes for establishing child support orders. This legislation would significantly expand the “menu of options” for parents to secure child support; create urgently needed efficiency for the court system; and help get support to some children sooner. The proposed expedited settlement

conference process is designed for parents whose income is straightforward and who seek to agree to child support in accordance with the New York Child Support Standards Act. The conference process for reaching an agreement would be expedited: parties engaging in the process would meet with court staff for a conference on the return date (which could be held virtually) and, where the parties sign a stipulation, it would be transmitted to a support magistrate that day for review and signature. If parents do not reach agreement in the expedited settlement conference, they would appear before the support magistrate for further proceedings in the litigation. This legislation would benefit some of our clients directly, but it would also benefit survivors by allowing the courts to dedicate urgently needed time and resources to complicated child support cases, including many of our clients' cases.

- When our staff call the courts for information or to advocate for our clients, nobody answers the phones. This is especially troubling for pro se litigants who may not have an advocate or attorney who may be able to assist.
- There is a significant lack of qualified language interpreters in the Family Courts, which often leads to cases being unnecessarily delayed or postponed. In a city as diverse as New York City, there should always be *quality* language interpreters on call. Clients have even had to wait for Spanish interpreters.
- All official court forms must be translated into Spanish and other languages to make them more accessible for our clients.

5. Facilities

- Not all court facilities are in good shape. For example, the Bronx Family Court flooded during the recent heavy rainfall. Poor court conditions add to the already dehumanizing experience survivors and their families face.
- In NYC Family Courts, the Office of Court Administration (OCA) must partner with the New York City Department of Citywide Administrative Services (DCAS) to ensure all facilities (even those outside of courtrooms) are accessible. Recently, we have faced obstacles simply replacing lightbulbs in office spaces inside the courthouses.

OCA and the courts themselves must take accountability for the functioning of our Family Courts and the ways they interact with survivors. And our City and our State must ensure that our courts have the resources they need to function in a timely and judicious manner. We demand a court system that is consistent, transparent, accountable, and accessible. And we demand that court personnel, including judges, treat their fellow New Yorkers with courtesy and professionalism. Our courts are in desperate need of reform, and Safe Horizon is here to partner with all stakeholders to ensure that we do right by survivors and their families.

The Current and Future Impact of Federal Victims of Crime Act (VOCA) Funding Cuts

In our remaining written testimony, we wish to highlight an existential issue facing victim services across New York State and the country. Victim services providers and antiviolence organizations across the country rely on many different federal funding streams to support and sustain our programs and services. One of the main funding sources that the sector relies on is the Victims of Crime Act, or VOCA. As part of VOCA, which became law in 1984, the Crime Victims Fund (CVF) was created as a non-taxpayer source of funding that supports the annual appropriation of funds for victim services. Today, VOCA funds nearly 6,500 victim services organizations across

the country. Several years ago, deposits into the CVF began to significantly decline, forcing Congress to decrease the amount of funding released for VOCA. In large part due to our collective advocacy, Congress passed the VOCA Fix Act in 2021, and President Biden signed it into law. This law directed deposits from deferred prosecutions and non-prosecution agreements to the Crime Victims Fund. Although the VOCA Fix Act has helped, it has not led to an increase in deposits at the rate we need it to. Because deposits into the CVF are still lower than they were at their peak, VOCA continues to face cuts, which will ultimately lead to programs laying off staff, reducing services, or closing.

We are at a crisis point that requires both federal action and state action. The NYS Office of Victim Services (OVS) has been ringing the alarm bell for years. In New York, our federal VOCA grant has declined \$121.6 million in the past five years. As a result, OVS terminated their legal services contracts earlier than planned and then combined three separate contracts (victim services, case management services, and legal services) into one Request for Proposal. Organizations were instructed to determine their priorities, i.e., decide which programs and services to prioritize over others, when responding to the RFA. Although we successfully advocated for the State to invest additional funding to make up for the shortfalls in VOCA funding, OVS awarded many new providers not previously contracted with OVS. It is wonderful that more organizations were awarded contracts, but this also led to legacy organizations like Safe Horizon seeing cuts to our contracts compared to our previous contracts. Nearly 90 organizations across the state suffered a decrease in funding, making it that much harder to sustain our core services for victims of violence and abuse. As a result of the cuts Safe Horizon experienced, we had to cut a position within our Domestic Violence Law Project and several positions across our Child Advocacy Centers and other programs.

OVS is still ringing the alarm bell and warning sub-grantees that it may not have the funding for the final year of our existing contracts. While we advocate with Washington, D.C. to find a more permanent, sustainable solution to this systemic national funding problem, New York State must invest state-originating dollars to make up these shortfalls. Other states, including Texas and Arizona, have found the necessary resources to keep critical victim services programs afloat, and we urge Governor Hochul to do the same in New York.

The Governor and our Legislature are focused on issues of public safety. The sustainability of the victim services and antiviolenence sector **is** an issue of public safety. Our programs provide the supports and assistance survivors need. Our programs provide shelter, food, immediate financial support, and other essential safety needs. And our programs help survivors, their families, and their communities find healing. Public safety is not solely about law enforcement; public safety is about housing, economic security, access to healing, and so much more. Our state government must recognize this and use state revenues to support survivors and the safety net that organizations like ours provide.

Conclusion

Thank you again for the opportunity to testify today. Survivors and advocates desperately need the support of our elected leaders at all levels of government. We look forward to continuing our work alongside our New York State leaders to ensure a safer, more equitable, and more just future for all New Yorkers. Thank you.