



Legislation Text

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Res. No. 1149

Resolution calling for changes in the New York City Family Court system to better protect battered women and parents who reasonably believe that their child is threatened by child abuse or domestic violence that is perpetrated or permitted by the child's other parent.

By Council Members James, Brewer, Fidler, Foster, Gerson, Gonzalez, Liu, Mark-Viverito, Nelson, Palma, Sanders Jr., Seabrook, Sears, White Jr. and Jackson

Whereas, Children involved in custody and visitation cases in New York City Family Court should not be placed into the custody of an abusive or violent parent; and

Whereas, A parent who makes a good faith allegation that his or her child is threatened by abuse or domestic violence on the part of the other parent should not lose custody or visitation with the child or be otherwise penalized by the Court as a result of making such good faith allegations; and

Whereas, The New York City Family Court should not allow expert opinions and evidence that attempt to discredit a parent's motivation for making allegations of abuse and domestic violence on the part of the other parent, unless the expert opinions and evidence are (i) grounded in theories accepted by the scientific community and (ii) supported by facts or evidence that can be established independently of the expert in question; and

Whereas, The Court should be prohibited from appointing mental health professionals or child custody evaluators who lack special training and experience in child abuse and/or domestic violence to conduct evaluations; and

Whereas, Parents involved in custody and visitation cases should be i) afforded due process, (ii) provided complete and timely access to custody and mental health evaluations and reports which the Court is considering, and (iii) given the opportunity to depose before the trial and cross examine during trial all mental

health and custody evaluators who testify; and

Whereas, Law guardians, guardians ad litem, minors' counsel, and children's attorneys should be prohibited from substituting their own judgments and opinion for those of the child, and should only be allowed to (i) advocate for the wishes of the child, and (ii) participate in court proceedings in the same manner as the parent's attorney; and

Whereas, Mediation, conciliation, and intake screenings sponsored by the Court should not make recommendations or reports to the judge regarding issues of custody, visitation, or contact with the child unless (i) all parties to the case agree to the transmittal of the report, and (ii) any parent would have the right to contest such a report; and

Whereas, Findings by any child protection agency should not be considered res judicata or collateral estoppel, and should not be considered by the Court unless all parents involved in the case are afforded an opportunity to challenge the determinations; and

Whereas, The Court must consider all admissible evidence of child abuse or domestic violence in custody and visitation cases; and

Whereas, Custody or visitation should not be awarded to a perpetrator of domestic violence in cases where such an act would violate a valid final order of protection or domestic violence restraining order; and

Whereas, The New York City Family Court should provide battered women in court with critical tools and protections such as interpreters, safety in and around the courthouse, adequate counsel, and domestic violence advocates; now, therefore, be it

Resolved, That the Council of the City of New York calls for changes in the New York City Family Court system aimed at protecting battered women and parents who reasonably believe that their child is threatened by child abuse or domestic violence that is perpetrated or permitted by the child's other parent.

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