

April 2, 2020

Honorable Lawrence Marks  
Chief Administrative Judge of the Courts  
New York Office of Court Administration  
25 Beaver Street  
New York, NY 10004

Dear Judge Marks:

As advocates for children and families impacted by the child welfare system in New York, we write to express concern about current Family Court practice across the state delaying important hearings that follow child removals and could reunite families. We are worried that this policy, developed as part of the Court system's COVID19 crisis response, threatens the well-being of children and families by extending periods of family separation where it is not necessary during a time of extreme community vulnerability and anxiety. These procedural opportunities for children to return home are "essential matters" that must not be unnecessarily delayed as part of the State's pandemic response.<sup>1</sup>

While we understand the unprecedented circumstances facing the Courts now, these hearings protect both child and parent due process rights, permitting families to address the Court at the time of removal, or shortly thereafter, and seek reunification. Having a court review a removal decision is critical and has historically played an important role in New York.<sup>2</sup> The result of any blanket delay is that numerous children continue to be separated from their parents where the Court would have permitted them to return home. As the American Academy of Pediatrics has explained, "highly stressful experiences, like family separation, can cause irreparable harm, disrupting a child's brain architecture and affecting his or her short- and long-term health. This type of prolonged exposure to serious stress—known as toxic stress—can carry lifelong consequences for children."<sup>3</sup>

Consistent with federal guidance from the Administration for Children and Families, we agree that "[p]rolonged or indefinite delays ... and postponements of judicial oversight place children's safety and well-being in jeopardy may lead to unnecessarily long stays in foster care, and are inconsistent with statutory and regulatory requirements."<sup>4</sup> We urge you to ensure that the Family Court can accommodate these hearings during the COVID19 crisis as part of its current remote proceedings, so that children can return home to their families quickly when it is safe to do so.

Sincerely,

Children's Defense Fund-New York  
Citizens' Committee for Children of New  
York

Families Together in New York State  
NYU Family Defense Clinic  
Schuyler Center for Analysis and Advocacy

Cc: Judge Jeanette Ruiz (by email)

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<sup>1</sup> Governor's Executive Order No. 202.8: "[i]n accordance with the directive of the Chief Judge of the State to limit court operations to essential matters during the pendency of the COVID-19 health crisis".

<sup>2</sup> *Nicholson v. Scopetta*, 3 N.Y. 3d 357 (2004).

<sup>3</sup> American Academy of Pediatrics, Statement Opposing Separation of Children and Parents at the Border (May 8, 2018), available at: <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenandParents.aspx>.

<sup>4</sup> Jerry Milner, Associate Commissioner, Children's Bureau, letter dated Mar. 27, 2020, available at: [https://cdn.ymaws.com/www.naccchildlaw.org/resource/resmgr/news\\_items/march\\_27\\_2020\\_letter\\_from\\_a.pdf](https://cdn.ymaws.com/www.naccchildlaw.org/resource/resmgr/news_items/march_27_2020_letter_from_a.pdf).