

MEMORANDUM IN SUPPORT

**Proposed Child Support Expedited Settlement Conference Process
S.245 (Persaud)/A.3531 (Reyes)**

Her Justice strongly supports S.245 (Persaud)/A.3531(Reyes), which would authorize the development of an expedited settlement conference process in New York Family Court for parents whose income is straightforward or undisputed to formalize agreements on support and avoid lengthy litigation. 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.

Her Justice is a nonprofit organization that advocates with and for women living in poverty in New York City by providing them with free legal services, in partnership with pro bono attorneys at New York City’s top law firms, in the areas of family, matrimonial and immigration law. Her Justice clients come from all over New York City – 31% live in Queens, 29% in Brooklyn, 23% in the Bronx, 13% in Manhattan and 2% in Staten Island. They also represent New York City: 54% are Latina, 24% are Black, 9% are Asian, 8% are White and 5% are Native American or from another minority group. All our clients are in critical need of legal support; 83% are survivors of intimate partner violence; 70% are mothers; 70% were born outside of the U.S.; and 48% need an interpreter in court. Child support is a key priority for Her Justice in our direct services – where we and our pro bono partners have represented hundreds of individual clients in child support cases – and in our policy reform efforts. We believe that the fairness and efficiency of the child support system should be improved to ensure that children receive the most support parents can afford.

Child support is critically important to families: it affects 16 million children in the U.S. For the lowest income households nationwide, child support from another parent living separately can comprise more than 57% of income. Thus, the child support system plays a key role in determining economic justice for single parents and children experiencing poverty.

The system in New York that delivers this critical support desperately needs reform. Almost all child support in New York is determined in the courts, and the courts are flooded with cases, with child support representing more than one-third of all family law petitions filed in the state. The courts are uniquely equipped to handle disputed or complex matters. But the current judicial system is one-size-fits-all, so that both complicated and straightforward cases proceed through the same courthouse doors. With no right to counsel in child support cases, more than 90% of parents navigate an overly complex system without an attorney. And the Family Courts



are backlogged – worsened by the pandemic – so that families spend months or years litigating cases, deferring needed support to children.

S.245/A.3531 would bring needed efficiency to the New York child support courts. 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 state guidelines for calculating support. 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 reach agreement, the stipulation 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.

Her Justice is committed to providing legal representation in Family Court where it is most needed – for example, to parents who must utilize legal discovery mechanisms to determine income available for child support or to families with multiple cases pending simultaneously such as child support and custody or orders of protection. In those cases, our clients need more time before support magistrates during court appearances, with shorter adjournments between court dates, so that affordable child support orders can be established, and support can be delivered to children more quickly. We strongly believe that if straightforward cases between parents who want to reach agreement on support are resolved through an expedited process, the courts will be able to dedicate urgently needed time and resources to complicated child support cases. The proposed solution will critically provide more resources to the Family Courts and will benefit all families in the child support system.

Expanding the “menu of options” for parents whose children need support through S.245/A.3531 would improve their experience navigating the child support system. With almost all parents navigating child support cases without legal representation, parents deserve greater choice in how they resolve child support in court. The proposed legislation would create a triage system in the Family Courts so that straightforward cases for agreeing parents and litigated cases would be handled differently and with dedicated resources. The legislation directs that court conference staff provide participating parents with certain notices to ensure that they understand the settlement conference process, their related rights, and the implications of reaching agreement on child support. Importantly, the proposed settlement conference would preserve due process protections for parents – providing court review and confirmation of any agreement reached and, for parents who do not agree on support, the option of a full hearing in Family Court. Further, the proposal includes accountability measures that direct the Office of Court Administration to evaluate the expedited conference process and make publicly available data about the effectiveness and impact of the conference option,



helping to ensure that the courts are achieving their mission to deliver Family Court justice fairly and expeditiously while protecting the due process rights of litigants.

S.245/A.3531 is cost-effective with a potential to bring increased federal funding to the State.

Resources that are allocated to the expedited settlement proposed (including court personnel) would be eligible for 66 percent reimbursement under Federal Financial Participation funding pursuant to Title IV-D of the federal Social Security Act. Further, to the extent the expedited settlement conference process improves New York's performance under federally established child support program measures by leading to more support orders, it could help enhance the State's federal child support incentive award.

Now is the time to address the crisis in child support courts. New York must address the crisis of backlogged Family Courts and the inaccessibility of child support to families who need it. Programs in other states provide sound models for action in New York. For example, in 2021, Massachusetts implemented an expedited conference process to address the court backlog caused by the COVID-19 pandemic. That year Massachusetts resolved more than 9,000 cases through the new program and in 2022, the program resolved 14,000 cases. In this vein, and through the innovative solution put forward in S.245/A.3531, New York must act now to ensure access to justice for parents engaged in the child support courts and financial security for children.

For all the above reasons, Her Justice supports the development of an expedited settlement conference process for the establishment of child support orders for agreeing parents through S.245/A.3531 and its innovative approach to civil justice system reform for increased fairness and accessibility of child support to families in New York. For more information, please contact Rachel Braunstein, Director of Policy, at rbraunstein@herjustice.org.