

New York State Bar Association Finds Child Welfare System Replete With Systemic Racism, Pushes for Reforms

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By Jennifer Andrus



The child welfare system is plagued by racism, with children and families receiving vastly different treatment depending on the color of their skin, the New York State Bar Association found in a new report that outlines reforms required to prevent the breakup of Black families.

The report, “Racial Justice and Child Welfare,” was approved Saturday by the association’s governing body, its House of Delegates. It recommends providing more assistance in employment, housing, food, and legal services to keep families living in poverty together.

“This report details the travesty of unfair and unjust treatment of Black children and parents in our child welfare system,” said NYSBA President T. Andrew Brown. “We must take a hard look at a system that is inherently stacked against families of color. Enacting the reforms outlined in this report will help these families stay together, bringing us closer to the equity we seek for both children and their parents.”

There has been a dramatic increase in reports of neglect as a result of poverty, the report found, and parents who are being separated from their children need economic support, not punitive child removal. In addition, cases of neglect are most often tied to challenges born of a lack of funds, such as food insecurity or unsafe, unreliable housing than to mistreatment of children. Parents were accused of intentionally harming their children in only one-quarter of child protective cases in the United States.

In coming to its conclusions, NYSBA’s Committee on Families and the Law reviewed a 2020 independent analysis of New York’s judicial system commissioned by Chief Judge Janet DiFiore. The [independent review](#) concluded that racism pervaded the court system, particularly the Family Court.

The NYSBA report found that in both New York City and across the state, Black children are more likely than their Latino and white counterparts to be reported to the child abuse hotline. Black and Latino children comprise 61% of the New York City population but constitute 87.8% of the children in protective investigations. When looking at foster care placement, Black children in Upstate New York make up 10% of the population but comprise 33% of the upstate youth population in foster care.

By the time they reach the age of 18, more than half of Black children in the United States have been subjected to at least one child protective services investigation compared with 28% of white children, the committee said in its report, citing data from the federal Department of Health and Human Services. Black children represent only 14% of the U.S. population but make up 24% of the foster care population.

Susan Lindenauer, co-chair of the Committee on Families and the Law, said the committee had a goal of finding ways to keep Black families together.

“Our effort is to reduce the impact on child welfare so that the black family unit can be preserved and not broken up,” she said. “Poverty should not and cannot be the premise for punitive child removal. You are punishing children for the poverty of their parents. We are at a pivotal moment to be a force to change a racist system.”

“The State of New York is failing in its obligation if it doesn’t keep the family together and help them get adequate housing,” said Linda Gehron, the other co-chair of the committee. “It’s just that simple.”

Fixing the child welfare system will require aggressive and comprehensive action at the state and federal levels, the report concludes. It also recommends repealing or amending the federal Child Abuse Prevention and Treatment Act to provide children and parents with the right to counsel and to avoid equating poverty with mistreatment of children.

The New York State Bar Association recommends that New York:

- Increase economic support to families and reduce the threat of family separation in child protective cases
- Appoint more Family Court judges
- Raise pay for court appointed attorneys in family law cases
- Require protective services staff to inform the parents and children of their rights to remain silent, to speak to a lawyer and to refuse entry into their homes
- Eliminate anonymous reporting of child abuse while still maintaining confidentiality
- Allow judicial discretion in determining contact with biological parents after rights are terminated, if in the best interest of the child
- Allow more access to kinship foster care by changing the criminal record check for families

The full report can be found [here](#)

About the New York State Bar Association

The New York State Bar Association is the largest voluntary state bar association in the nation. Since 1876, NYSBA has helped shape the development of law, educated, and informed the legal profession and the public, and championed the rights of New Yorkers through advocacy and guidance in our communities.

