

## D.C.'s Family Court at 10

It's been a testing ground for pioneering programs, but issues remain.

By **Zoe Tillman** [Contact](#) [All Articles](#)

The National Law Journal | October 8, 2012



[Print](#)

[Email](#)

[Reprints & Permissions](#)

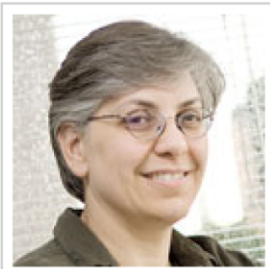
[Post a Comment](#)



D.C. Superior Court Judge Zoe Bush  
*Diego M. Radzinski/NLJ*



Delaney McKinney's  
Margaret McKinney  
*Diego M.  
Radzinski/NLJ*



Children's Law Center  
director Judith  
Sandalow  
*Photo: Diego M.  
Radzinski / LEG*

In late December 1999, a District of Columbia Superior Court judge returned 23-month-old Brianna Blackmond from foster care to her mother. Two weeks later, Brianna died of multiple blows to the head inflicted by her godmother.

The case shocked Washington and sparked investigations into every facet of the city's child welfare system. Concerned that Brianna had fallen through the judicial cracks — the judge returned her to her mother without holding a hearing — lawmakers in Congress declared that the court's Family Division needed fixing. Legislation overhauling the division and renaming it as the Family Court went into effect in early 2002.

More than 10 years after the passage of the Family Court Act, the division remains a work in progress. Lawyers point to several areas in need of improvement, from scheduling delays to transparency. Judicial burnout, an issue when the Family Court Act was debated in 2001, remains a concern. And judges and lawyers agree that more lawyers are needed to aid a growing pro se population.

In the past year, court officials supported legislation in Congress that would shorten terms for division judges and moved forward with plans for electronic filing. An independent task force of lawyers is expected to finish a report this fall on the state of the domestic-relations and paternity and child-support branches.

National family law experts and local practitioners have praised the court's openness to programs aimed at tackling issues at the core of family cases, from a child's educational needs to parental unemployment or substance abuse. The Family Court Act "led to a lot of innovation," said Margaret McKinney of Delaney McKinney in Chevy Chase, Md., former co-chair of the D.C. Bar's family law section.

"It was a painful process," said Presiding Family Court Judge Zoe Bush, referring to the scrutiny the court came under after Brianna's death. The court butted heads with Congress, but Senior Judge Rufus King III, who was chief judge at the time, said that "despite a very difficult and dramatic process getting there, at the end of the day we ended up with a very strong Family Court."

## **ONE FAMILY, ONE JUDGE**

The Family Court Act centered on the principle of "one family, one judge," requiring one judge to handle all cases across the division involving immediate family members. The law required Family Court judges to serve in the division for at least five years, or three years for judges appointed before the law's passage. Previously, all active judges heard abuse and neglect cases on top of their assigned calendar. Other provisions of the law included regular judicial training, case management technology upgrades and the appointment of magistrate judges to also serve exclusively in Family Court.

Annual reports to Congress, another requirement, show that the court made strides in meeting benchmarks for abuse and neglect cases, the law's primary focus. From 2007 to 2011, for example, judges met deadlines for holding disposition hearings in about 90 percent of cases in which a child was removed from the home. In 2000, the court met those same deadlines in just 26 percent of cases.

Washington solo practitioner Deborah Cason Daniel, president of the Family Court Trial Lawyers Association, said the Family Court Act created a new sense of urgency. "You don't often get a child growing up in foster care any longer," she said.

But Daniel and other longtime Family Court practitioners say some of the changes have proved to be a double-edged sword. She said she has been concerned that under "one family, one judge," a judge who may have heard hearsay testimony in an abuse and neglect proceeding could also decide a subsequent adoption case. "Judges say they're able to separate what they've heard...and I think they do, but I think it's difficult for someone to forget what they've heard over the past two or three years," she said.

Bush said that the issue of prejudice came up during hearings on the Family Court Act, but "the interest in having a judge who's intimately familiar with the family won out." She said that litigants or their lawyers can request a recusal if they have a serious concern.

## **MOVING FASTER**

The family court act was aimed at reforming the management of abuse and neglect cases, but it affected all areas of the division, from juvenile delinquency and domestic relations to paternity and child support.

Judge Anita Josey-Herring, deputy presiding Family Court judge from 2000 to 2005 and presiding judge from 2006 through 2008, said the court regularly held meetings to gauge how cases were moving throughout the system. "We've tweaked things to make those processes work better. We've also changed calendar assignments to make them more effective," she said.

McKinney, who is co-chair of the task force studying the domestic-relations and paternity and child-support calendars, said that, although the court adopted new guidelines for managing domestic-relations cases in 2008, divorce and custody cases can still move too slowly.

"Sometimes you really need six months to a year to see if people can figure it out on their own," she said. "But sometimes you have families in crisis and there's not a good way to [consistently] get them in front of a judge quickly."

Court data show that, although the court met internal guidelines for resolving contested divorce and custody cases in 2011, it fell short of meeting deadlines for uncontested matters. Bush said she is satisfied with the division's performance, but acknowledged that there can be delays, especially when pro se parties are involved. She said the court has looked for ways to improve efficiency, such as staggered scheduling so litigants don't show up at the same time and then wait for hours. "Could we do better? We could," she said, but added that with pro se litigants, "it just takes longer."

Court officials have targeted several other areas for improvement. In July, the U.S. Senate passed legislation that would shorten the terms for Family Court judges from five years to three. In a letter to lawmakers, Chief Judge Lee Satterfield said the five-year term had made some judges reluctant to volunteer for such a high-stress assignment. In September, the court adopted an order requiring electronic filing in neglect and abuse, juvenile and most domestic-relations cases, in the hopes of making case management more efficient.

Family Court judges have embraced a host of new programs over the past decade. Successes include the Fathering Court, created in 2007 to help previously incarcerated men reconnect with their children and meet child-support obligations, and the Family Treatment Court, a substance-abuse treatment program for mothers and female caretakers whose children are the subject of neglect cases.

Access to legal counsel has been an area of concern. According to court data, the Family Court's self-help center served 7,538 people in 2011, a jump of 25 percent from the 6,049 people served in 2009. "When you're litigating one of your most fundamental rights, parenting and raising a child, not having access to counsel can sometimes do a great injustice," said Lise Adams, who oversees the family law activities of the D.C. Bar Pro Bono Program. Bush agreed that more lawyers are needed, noting that besides the self-help center, the court has worked with the bar for years to bring in volunteer lawyers.

On the juvenile delinquency side, the court recently launched a diversion program for juveniles with mental health issues and, this summer, opened the Southwest Balanced and Restorative Justice Drop-in Center, the third such site for young people on probation. The centers house probation offices and offer services such as job training. Satterfield, a former Family Court presiding judge, has said his priorities include providing more services for the growing number of female delinquents.

Over the last decade, Children's Law Center Executive Director Judith Sandalow said that judges and lawyers have expanded their knowledge of family law — and this has led to a vital philosophical shift: "The greatest result of [the Family Court Act], I believe, is that judges and lawyers pay more attention to the disease than the symptom."

Contact Zoe Tillman at [ztillman@alm.com](mailto:ztillman@alm.com).