

MANDATORY ELECTRONIC RECORDING OF HEARINGS IN FAMILY COURT

Why Should Family Court Recordings be Mandated?

- Family court hearings routinely involve child custody and timesharing decisions which significantly impact a child's life well beyond age 18. Divorce is stressful enough for children who have to adapt to two homes, and the physical and emotional adjustment related to the back and forth between each parent's residence. The judge's decision on how that time is divided, along with education, religion and medical care, will affect that child throughout life. These decisions are far too important to be made without recording all facts, testimony, and evidence presented at any of those family court proceedings. Court reporters and transcripts are very costly and many parents just can't afford them. The ability to appeal such an important decision is limited, if not impossible, without a record or a transcript of the proceedings.
- By having these court recordings available, should there be a change in judges during the litigation process, an undisputed record exists saving time for judges, litigants and attorneys, thus reducing costs for all and insuring fairer and more rational decisions.
- Even if the same judge presides over the same case, it can take months or even years to fully resolve all outstanding matters before the court. This would require a judge to recall a large volume of information, which inevitably changes over time. A recording, transcribed if necessary, can be of great benefit in aiding the judge on all facets of any particular case, saving a judge time, and thereby, saving taxpayer money.
- Ensuring a child's civil right to access to both parents (assuming neither parent is a danger to the child) helps the child adjust to the difficulties of a break-up or divorce, lessening the trauma and stress.

Lack of Uniformity

- Not all of The Unified Family Courts (UFCs) of the 15th Circuit Court are equipped with both audio and video recording capabilities.
- Yet all family court hearings before a general magistrate are presently required to be recorded.
- Family court proceedings before a judge may or may not be recorded, if the courtroom is properly set-up with recording devices, but only at the judge's discretion.
- According to our findings during our 15 years of volunteer court watching and reporting, many family court judges choose not to record, and are thereby denying many impoverished litigants who are attending pro se, the right to a fair and impartial proceeding and/or appeal.

Families Against Court Travesties, Inc. (FACTS)'s mission is to assist families who have been placed into a crisis situation by the family courts or other government agencies. By implementing a court-monitoring and reporting system, our goal is to ensure that the best interests of the child prevail in family court and that due process and equity are the norm. We are also committed to educating the public on these issues.

Cost to Implement

- There are costs to implementing mandatory electronic court reporting, as all court rooms are not equipped to record hearings. There would also be costs for the discs and the transcriptions. Transcripts would make clear that a current accusation is simply a frivolous rehashing of an earlier one—a common problem in high conflict cases is the effort by one parent to harass the other through repeated motions. The costs of installing more equipment in some courtrooms, and providing discs and transcriptions, would be clearly offset by the reduction of redundant proceedings due to the lack of printed evidence of prior proceedings.
- Should a parent want a copy of an electronic transcript from the court, the cost would be greatly reduced compared to hiring a court reporter to transcribe. Currently in Palm Beach County, a CD of a court recording costs approximately \$20. There could be a nominal cost to the parent for a written transcript of this recording, but once again, this cost would be offset by shortening the number and length of courtroom proceedings. If a transcript is needed for an appeal a parent should be able to get it within the 30 day time limit if he/she is willing to pay another nominal fee for it to be expedited. Any additional costs for these services are outweighed by the benefits to the courts, the litigants, and the taxpayers; also knowing that there is a trail of recorded evidence dissuades frivolous litigation, thereby also saving time and money.

Avoiding Child Abuse

- Many highly contested custody cases involve child abuse, in one form or another. Because one parent may be much more affluent and connected than the other, many children are awarded to an abuser. While we would like to think that the courts are always fair and put the child's best interests first, there are many statistics showing that this is not the case. Many children aren't even considered in the heated atmosphere of a contested case, as our volunteer court watchers can attest to. The best interests of the child are not being served when there are no recordings or transcripts to authenticate what actually happened during these proceedings. It is evidence and shouldn't be withheld because it is unaffordable to an impoverished parent. Child abuse is akin to violence and should be given the same courtroom rights as violence is.

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