

SCALES

Justin A. Tahai

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A Motion for Prospective Relief



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Justice delayed is justice denied.

SCALES: A Motion for Prospective Relief
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Author's Note

SCALES is an argument for institutional reform, written from the perspective of a father and former information technology professional. "A motion for prospective relief" describes its purpose; this book is not a pleading or individualized legal or clinical advice.

The text distinguishes existing law, research findings, professional guidance, personal recollection, and proposals. Legal references identify the source examined, not a guarantee about the law or remedy applicable to a reader's case. The sources are a selected interdisciplinary foundation, not a systematic review. Research concerning a population does not diagnose an individual child or establish responsibility in a particular dispute.

Ari, Sam, Taylor, North Clinic, and the alternative provider in the continuing example are wholly fictional. Their circumstances, budgets, communications, and outcomes were invented to test the proposed method, not drawn from a disguised family case. No price, timetable, or result in that example is a clinical prescription or an estimate of Maine court performance. Other hypothetical examples are identified in the text.

The attorney conversation in the closing chapter is my recollection of what I was told, not independently verified evidence of seminar attendance or individual judicial knowledge. My child's private treatment records and communications are not reproduced. The proposed initiative and ProSe are projects I advocate or develop; they are not independent validation of the argument.

Numbered source notes provide authorities, publication details, and important limits. Throughout, the standard is the same: preserve the distinction between what is known, what is inferred, and what ought to change.

Preface

What the Scales Must Weigh

The first weight is absence.

The conversation that cannot happen when it is needed. The ordinary meal that becomes a request. The help with schoolwork that must somehow find its way through an adult dispute. The simple knowledge of how someone you love is doing, now dependent on a process that may not answer.

A parent separated from a child still has to work, pay bills, keep appointments, and prepare for the next step. The child still has school, friendships, questions, and a life that cannot be placed on hold. Neither receives a second, unburdened life in which to manage everything else.

Where separation is unnecessary or prolonged without sufficient justification, it is not merely one difficulty among many. It is the weight under which the other difficulties must be carried. Then come the cost of seeking an answer, the work of learning how to ask, and the demand to remain composed while the relationship continues without the ordinary conditions that might sustain it.

A parent may be expected to demonstrate stability while spending the resources that make stability possible.

This is the crushing weight at the center of SCALES. The question is not which family has suffered most. It is why a family already carrying profound loss must also carry avoidable institutional burdens as the price of asking whether that loss must continue.

Protection can require separation. The gravity of a necessary restriction makes scrutiny of unnecessary or unnecessarily prolonged restrictions more important, not less. Safety and the preservation of safe relationships both require careful attention. Neither should become a slogan that makes the other disappear.

A scale can be balanced and still measure the wrong things. Place one parent's legal position on one side and the other's on the other. Receive their documents, hear their accounts, apply the rules, and announce a result. Important safeguards have been observed. Another question remains: what happened to the child while the positions were being weighed?

What weight was assigned to the intervening school year? To the resources consumed obtaining a decision that required another proceeding to make it work? To an appropriate service that remained unavailable? To the difference between recognizing a right and making its lawful exercise possible?

These are not objections to fairness. They are demands that fairness account for its consequences.

I write as a father and as someone whose professional work required turning specialized knowledge into usable service. I would not have considered a client's confusion about technical language proof that the client did not deserve help. The expertise was mine to translate. That responsibility does not disappear when the institution is public and the problem concerns a child.

This book therefore asks both who is carrying the weight and what genuine relief would remove. It examines the costs of acting and not acting, the purposes of safeguards, the quality of evidence, and the responsibilities that must connect a decision to a result. It also proposes a process and submits that proposal to the same scrutiny.

Retrospective accountability remains necessary. Records should be corrected, responsibility examined, and available remedies provided. But a later explanation cannot replace protection when it was needed. Even a sincere apology cannot return a childhood afternoon to the afternoon on which it mattered.

The problems of tomorrow should be less severe than the problems of today. That is a standard of responsibility: learn from the failure, reduce its likelihood, limit its consequences, and verify that correction reaches the family. The future will bring difficulties of its own. It should not inherit avoidable failures merely because professionals found them familiar.

Justice is not a test of how much a family can endure before it is finally helped.

CHAPTER 1

Two Clocks

The calendar and the life

A courthouse has a calendar. A child has a life.

The distinction is simple enough to sound obvious. Its implications are not. The calendar can accommodate a continuance. The child cannot postpone being nine, thirteen, or sixteen. A filing can be amended. The week during which a child needed reassurance cannot be amended into a different week. A reviewing court may eventually identify a mistake. It cannot arrange for the family to relive the intervening months with the mistake removed.

Justice delayed is justice denied. In matters affecting children, this familiar maxim must be more than an expression of impatience. It should direct attention to the kind of thing being lost. Some losses can be compensated. Some decisions can be reversed. Some records can be corrected. But the sequence of a child's life cannot be restarted from the point at which a public institution should have acted differently.

That does not mean recovery is impossible. Relationships may improve. Treatment may help. Families may rebuild routines and trust. The possibility of recovery is a reason to act, not a reason to regard the original loss as inconsequential. Repair and restoration are not identical. A repaired relationship is lived by people who have also lived through the rupture.

Consider Ari, fourteen, and the parents Sam and Taylor. Their circumstances are fictional; they will recur so that the proposed reforms can be examined against the same problem rather than a succession of convenient examples.

An existing order permits professionally supported work on Ari's relationship with Sam. It identifies North Clinic, retains protective conditions, and does not authorize unsupervised visits. The clinic's next assessment appointment is eight weeks away. The order does not say what happens if the clinic cannot begin promptly or when that obstacle will be reviewed.

The first telephone call establishes the wait. A second call confirms that there is no cancellation list with a reliable earlier opening. Sam asks what to do. Taylor questions whether a different provider would be appropriate. Neither question is answered by repeating the clinic's name.

Meanwhile, Ari begins and completes a six-week school project. There are ordinary frustrations, discoveries, and opportunities to ask an adult for help. The example does not assume Sam was entitled to attend a school event or that an earlier session would have resolved the relationship. Its narrower point is that an eight-week administrative interval contains a six-week part of a child's life. A later assessment cannot provide support during a period that has already ended.

At the end of the eighth week, the clinic may begin useful work. That benefit would matter. It would not establish that the preceding wait was unavoidable, safe, or properly reviewed.

Now alter one fact: Ari reports an immediate danger. The ordinary appointment queue would no longer be an adequate response. The appropriate emergency process must be used. Time matters in both directions: neither an unsafe exposure nor an unnecessary interruption of a safe relationship should be protected from examination by the institution's calendar.

Delay is a condition, not an explanation

"Pending" describes the position of a matter within a process. It does not explain whether the process is adequately protecting the people affected by it.

A pending request can be under active consideration with protective arrangements in place. It can also be waiting without a responsible decision-maker, a clear next step, or a review date. The same word can conceal profoundly different conditions. Public institutions should not be allowed to rely on that ambiguity when they are asked what is happening to a child in the meantime.

A responsible explanation should identify what remains to be decided, why the additional time is necessary, what will happen during that interval, and when someone will examine the arrangement again. Without those elements, a statement about process may do little more than describe the continued absence of an answer.

The developmental research provides a reason to take the intervening environment seriously. In a longitudinal study of 235 families, E. Mark Cummings and colleagues examined interparental conflict in kindergarten, children's emotional insecurity in the early school years, and later adolescent adjustment. Their findings supported emotional insecurity as a pathway linking earlier conflict with later internalizing and externalizing problems. This was not a study of court waiting times, and it cannot establish what a particular delay caused. It does establish that the family conditions in which children spend the intervening years deserve substantive attention.[1]

The inference I draw is limited but important: when an institution knows a child is living within a consequential dispute, it should examine the conditions it is leaving in place while that dispute remains unresolved. It should not assume that procedural inactivity produces a neutral environment.

Waiting is sometimes justified. Investigation takes time. Fair notice matters. A person must have a meaningful opportunity to respond to allegations. Reliable interpretation, accessibility accommodations, and competent professional assessment may be necessary to obtain a fair decision. None of those protections should be dismantled in the name of speed.

But necessary time should have a stated purpose. It should not be confused with time lost because responsibility is unclear, a

correctable defect has been returned without useful guidance, or no one has reviewed whether an interim arrangement is still serving its purpose.

The status quo has a history

An existing arrangement is not self-explanatory.

It may reflect stability achieved after careful assessment. It may reflect a necessary protective response. It may also reflect a temporary solution that continued because the route to reconsideration was slow or inaccessible. The fact that an arrangement has lasted does not, by itself, identify which explanation is correct.

This distinction matters because continuity can be valuable without every source of continuity being desirable. A decision-maker should ask how the present circumstances arose, which parts are beneficial, which parts remain disputed, and what would be involved in changing them safely. Neither preservation nor disruption should be presumed correct simply because it is easier to describe.

Maine's parental-rights statute illustrates the need to weigh several considerations rather than elevate one into an automatic answer. It places the child's safety and well-being first and includes the child's relationships, meaningful preferences, current living arrangements, stability, and parental capacities among its best-interest factors. Domestic abuse and its effects also require consideration. The statute's structure does not make elapsed time an independent finding that everything maintained during that time was appropriate.[2]

The reform proposed here is an explicit examination of time. How long has the disputed condition existed? What portion of that interval served necessary investigation or fair process? What portion resulted from unresolved logistics? What protective or supportive action occurred during the wait? What becomes harder to repair if the same condition continues?

These questions do not predetermine custody. They require the institution to make the passage of time visible in its reasoning.

A new judicial assignment should not make an old problem young. A corrected filing should not erase the date on which the practical difficulty began. A new case-management event may have a new administrative start date, but the child does not receive a new history with it.

What later relief can and cannot do

A later order can direct different conduct. A later hearing can clarify responsibility. A later remedy can acknowledge an injury or provide resources for repair. These are meaningful powers. Their importance does not remove their limits.

An institution should therefore ask two separate questions: What must be done about what has already happened? And what must happen now to prevent the next avoidable injury?

The first question concerns accountability for the past. The second concerns responsibility for the future. A system that answers only the first is incomplete in a field where the people affected are still growing, learning, and living together or apart under its decisions.

Prospective relief is not an idea absent from family law. Parenting orders themselves direct future conduct. The problem this book addresses is whether forward-looking protection is sufficiently timely, specific, accessible, and capable of implementation. An order's future tense does not guarantee its future effect.

The institutional task is not to make the clock stop. It is to act with an honest understanding that the clock cannot stop.

That understanding should change what gets reviewed, how urgently it is reviewed, and what happens while review is underway.

CHAPTER 2

What Is Justice?

A purpose, not a place

What is justice?

The question must be answered before an institution can credibly claim to administer it. Otherwise, justice becomes whatever the institution happens to produce, and criticism becomes impossible by definition. A decision would be just because a court issued it. A process would be fair because an authorized person followed it. A harm would cease to count against the system once the system found a permitted way to leave it uncorrected.

That is not a definition of justice. It is a definition of institutional self-certification.

A courthouse is a place. A judgment is an act of authority. A procedure is a method. None is, by its existence alone, proof that justice has occurred. We should be able to value courts, insist on lawful conduct, and still ask whether the exercise of public power deserves the name under which it operates.

The United States Constitution's Preamble identifies one of its purposes as to "establish Justice."[3] The verb matters to the argument of this book. Establishing something requires bringing it into being, not merely naming an office after it. This is an interpretation of public purpose, not a claim that the Preamble supplies a freestanding lawsuit whenever someone considers a decision unfair.

Maine's Constitution is more explicit about administration. Article I, section 19 directs that right and justice be administered "freely and without sale, completely and without denial, promptly and without delay."[4] Those words do not decide the constitutional

validity of every fee, waiting period, or procedural requirement. They do, however, provide a demanding standard against which the design of public service should be examined.

Completely. Promptly. Without denial.

A parent should not have to apologize for asking what those commitments mean in practice.

A working definition

For the purposes of this book, I propose the following definition:

Justice is the disciplined practice of giving each person the protection, consideration, and remedy they are due, through fair and usable procedures, with power answerable to evidence and consequences, in time for that protection to matter.

This is a normative definition: a statement of what the institution ought to accomplish. It is not offered as a quotation from a court or as a substitute for the elements of any legal claim.

Each part imposes a restraint.

"Each person" includes the child, both parents, the person reporting harm, and the person accused of causing it. The definition cannot be reserved for sympathetic people or for whichever party tells the more compelling story. It must withstand the discomfort of protecting someone whom the decision-maker dislikes.

"What they are due" is not the same as everything they demand. A person may be entitled to protection but not retaliation; to a meaningful hearing but not unlimited repetition; to accurate consideration but not a favorable result. A parent may have a legitimate interest in a relationship without having a right to require a child to feel affection on command.

"Fair and usable" requires both integrity and access. A process that reaches the desired result through intimidation is not redeemed by that result. A process whose safeguards can be exercised only by those able to finance prolonged participation is not made adequate simply by publishing the same instructions for everyone.

"Answerable to evidence and consequences" requires reasons that can be examined. It rejects both arbitrary authority and hindsight certainty. A decision must be assessed in light of what could reasonably have been known when it was made; once new information becomes available, however, continuing the same arrangement requires renewed justification.

Finally, "in time" makes prevention part of the obligation. An institution cannot call its remedy complete without considering whether the delay has defeated the thing the remedy was supposed to protect.

The definition is demanding because the power is consequential. It does not require omniscience. It requires disciplined attention, honest limits, and a functioning route to correction.

Law and justice must be connected without being collapsed into the same word.

Public power needs legal boundaries. The answer to an unsatisfactory ruling cannot be that an official should disregard the law in pursuit of a personal vision of the good. Nor can a parent's conviction of being right authorize threats, unlawful self-help, or disregard of an operative order. The restraints that frustrate one person's preferred outcome may be the restraints protecting another person from arbitrary power.

Yet a law can itself be a proper subject of criticism. So can an authorized practice. A rule may need amendment because the burden it creates is unnecessary or the protection it provides is inadequate. An institution may satisfy a minimum legal requirement while failing a more demanding standard of responsible service.

There are therefore two different questions: What does the present law authorize or require? What should the law and its administration become?

A serious reform movement must answer both without pretending they are interchangeable. Calling a proposed safeguard morally necessary does not make it an existing legal entitlement. Calling a practice currently lawful does not make its improvement unnecessary.

This distinction gives reform its proper work. Courts should exercise the authority they possess conscientiously. Rule-makers should correct rules that obstruct their own purposes. Legislatures should address defects requiring legislation and provide the resources necessary to make their promises operational. Professional bodies should examine competence within their mandates. No participant should use the limits of one office to imply that no office can act.

Justice is not permission to abandon law. It is a reason to demand that lawful institutions remain capable of improvement.

The words that carry the argument

A claim that a burden is undue needs more than the fact that someone finds it painful. Otherwise, every necessary safeguard could be condemned by the person it inconveniences. Equally, a requirement does not become justified simply because an authorized office imposed it.

In this book, a burden is undue when its severity or duration lacks a sufficient, evidence-supported justification in light of its purpose and feasible, less burdensome alternatives. That is a proposed evaluative standard, not a single legal test governing every case. A restriction needed for protection may be justified. Keeping it unexamined after the facts or practical conditions materially change requires a fresh explanation.

Harm and burden are related but not identical. A burden is a demand on time, money, attention, privacy, or freedom. Harm is an adverse effect on an interest that matters: safety, health, a relationship, education, or the resources that support ordinary life. A burden may be necessary to prevent a greater harm. A clinical injury requires clinical evidence; a legal injury requires the applicable legal analysis. Neither should be inferred solely from the intensity of a parent's objection.

Foreseeable means there was a reasonable evidentiary basis, at the relevant time, to recognize a material risk. It does not mean that

an official should have predicted the exact date or form of a later difficulty. A clinic's confirmed eight-week wait makes an eight-week failure to begin that service foreseeable without predicting Ari's psychological future.

Preventable means a feasible, lawful response could reasonably have been expected to avert or reduce the identified problem. It is not enough to imagine, after the event, a perfect response requiring information or resources that no one possessed. But a resource that could have been requested, a review that could have been scheduled, or an ambiguity that could have been clarified should not vanish from the analysis merely because no one acted.

These definitions require comparison. What is the risk of continuing the present arrangement? What is the risk of the proposed change? What lesser step is available? How reliable is the supporting information? Which consequences would be difficult to reverse? Who can make the necessary decision?

For Ari, Sam's distress does not itself justify unsupervised visits. Taylor's objection does not itself establish that no alternative provider is suitable. The clinic's confirmed lack of availability does establish that the named service will not begin as promptly as the plan assumed. Justice requires separating those propositions so that the answer to one is not used to avoid the others.

The distinction is the foundation of prospective responsibility. Investigating a supported obstacle need not wait for a diagnosis of damage. Changing a protective condition still requires its own lawful and evidentiary basis.

More than one kind of balance

In Book V of the Nicomachean Ethics, Aristotle distinguishes justice concerned with distribution from justice concerned with correcting wrongs in dealings between people.[5] The distinction is useful here without requiring the reader to adopt his wider political philosophy. Deciding how benefits and burdens should

be allocated is not identical to deciding what should follow an established injury.

A family proceeding can raise both questions. Who bears the expense of an assessment? Who has the practical ability to attend? What support is available to a person who cannot participate without assistance? Separately, what should happen when an obligation has been wrongfully breached or a material error established?

A third question, central to this book, looks forward: What can be protected before correction becomes necessary?

The balances must not be confused. Splitting an expense equally does not, by itself, establish that the resulting obligation is workable. Imposing a penalty does not, by itself, establish that the interrupted service has resumed. Creating a preventive measure does not, by itself, establish that the measure respects the rights of those it affects.

Consider a hypothetical requirement that each parent obtain the same privately funded professional assessment. One can pay immediately; the other cannot pay without missing rent. Equal wording has produced unequal practical choices. That does not automatically determine who should pay or establish a constitutional violation. It requires the decision-maker to examine feasibility rather than mistake identical invoices for an adequate analysis.

Now consider a justified restriction imposed to protect a child. Fairness does not require an equal restriction on the other parent merely to create visual symmetry. The relevant evidence may require different treatment. What must remain equal is the seriousness with which each person's rights, responsibilities, and evidence are examined.

There is another danger in the image of balance. Both sides can be made equally burdened without either being fairly treated. Requiring two parents to spend beyond their means does not become just because the demand is symmetrical. Nor does an evenly distributed procedural burden tell us whether the child's needs have been addressed.

A balanced instrument can still be overloaded. Justice requires examining not only the distribution of a burden, but whether that burden should have been imposed at all.

The scales should be impartial. The measures placed upon them need not be identical when the circumstances are materially different.

Truth is an obligation of method

Justice requires an honest relationship with truth, including an honest account of uncertainty.

A confident statement is not stronger because it is confidently stated. An allegation does not become a finding by repetition. A finding does not become immune from examination because revisiting it would be inconvenient. Equally, a disputed finding is not disproved merely because a party continues to dispute it.

The necessary discipline is to identify what is known, how it is known, what remains contested, and what conclusion the available evidence can support. This should apply to parties and professionals alike. A parent's account deserves neither automatic acceptance nor automatic discounting. A professional opinion deserves attention proportionate to its methods, information, and relevant expertise—not a special exemption from examination.

A useful decision should allow another reader to follow its essential reasoning. What fact mattered? What evidence supported that fact? What competing account was considered? Why did the chosen response follow? Reasons make disagreement more exact. They also make correction possible without requiring every challenge to become an accusation about motive.

The United States Supreme Court's due-process framework in Mathews v. Eldridge weighs the affected private interest, the risk of erroneous deprivation and the potential value of additional safeguards, and the government's interests and burdens. The case concerned Social Security disability benefits and upheld the procedures at issue without requiring a pretermination evidentiary hearing.[6] It

is not a command that every family dispute receive the same hearing. It illustrates a more useful question than whether a procedure has always been used: What protection does this procedure actually provide against a consequential error?

For this book's reform framework, uncertainty should produce a reasoned plan for resolving uncertainty. It should not become either an excuse for unlimited intrusion or an excuse for indefinite neglect.

Victory, punishment, and the person affected

Winning is a description of a party's result. Justice is a judgment about the legitimacy of the means, the adequacy of the reasons, and the treatment of everyone affected.

The distinction matters most when the reader believes the right person won.

A preferred result can conceal defective reasoning. An unfavorable result can follow a fair process. A mutually disappointing compromise can be sensible, but disappointment on both sides does not prove that a decision was balanced. A midpoint between two demands may be reasonable or entirely wrong; its location between the demands tells us little about the underlying facts.

Children should not become the remainder left after adults divide their claims.

Their schooling, privacy, safety, relationships, and ordinary routines deserve direct examination. Those interests are not necessarily captured by either parent's requested relief. A parent may correctly identify a problem while proposing an excessive solution. Another may offer a reasonable logistical objection while failing to address a separate responsibility. A just decision should be able to recognize both without converting either adult into an entirely virtuous or entirely blameworthy character.

Justice must also be independent of how professionally a claim is packaged. Clear presentation helps a decision-maker understand. It should not become a substitute for merit. The better advocate

may be right, but fluency is not proof. The person who struggles to organize a record may be wrong, but disorganization is not a finding about the underlying event.

The institutional task is to make the relevant differences visible, not to reward every difference that the contest happens to expose.

A sanction may be necessary. It can recognize responsibility, enforce a lawful obligation, or deter further misconduct. But punishment is not an adequate definition of justice in a child's life.

Suppose, as an illustration, that a missed appointment is ultimately found to have resulted from deliberate noncompliance. A consequence directed at the responsible adult may be warranted. The child's need for appropriate support remains. The arrangement still requires a workable appointment, a safe transportation plan, and a way to prevent the same failure from occurring again.

Without that second task, the institution may punish the past while leaving the future materially unchanged.

The opposite mistake is also possible. An institution may speak warmly of cooperation and healing while never determining responsibility for established wrongdoing. Reconciliation should not be demanded as the price of being protected. A person should not have to abandon a supported complaint merely to demonstrate a willingness to move forward.

Repair, accountability, and prevention serve different purposes. The need for one does not cancel the others.

Nor should a child be required to display gratitude for a remedy. A child who remains distressed has not thereby failed the institution. The purpose of relief is not to secure an approving review from the people who endured the problem. It is to address the problem with proportionate, effective, and lawful action.

There is a further restraint on every account offered here: a child is a person, not compensation.

A parent who has suffered a wrong may deserve acknowledgment and an available remedy. That does not make the child's feelings an asset to be transferred back by order. Where a relationship has

been damaged, the appropriate aim is to create safe conditions in which it can be examined and, where appropriate, repaired—not to declare that emotional recovery is now due on a deadline.

This does not permit adults to obstruct lawful arrangements and then point to the resulting difficulty as a complete answer. It requires the institution to distinguish the child's present experience from the conduct and conditions that should be investigated. Neither dismissing the child's experience nor treating it as the end of inquiry is sufficient.

Maine's parental-rights statute directs courts to prioritize the child's safety and well-being and includes the child's meaningful preference among multiple best-interest factors. It also prohibits a parental preference based on the parent's gender or the child's age or gender.[2] These are legal instructions, not a formula guaranteeing any particular allocation of time.

The moral implication I draw is that attention must remain individualized. An involved father is not expendable because he is a father. A mother's safety is not expendable because contact matters. A child's account is not expendable because it complicates either adult's argument. The institution's work is to examine the relevant evidence without making any of those people disappear.

The justice of what happens next

Imagine two hypothetical responses to the same supported request for help.

In the first, every filing is received, every participant is addressed politely, and every document is stored correctly. No one identifies who must resolve the immediate obstacle. The child loses the opportunity in question while the matter remains formally active.

In the second, the relevant parties receive fair notice, the disputed facts are identified, a proportionate interim decision is made by an authorized person, and responsibility for the next step is clear. Necessary restrictions remain in place. A review date is set. When

the arrangement fails, the failure reaches someone who can address it.

The second process may be less ceremonious. It is closer to the standard of justice advanced here because its safeguards lead to an answer that can be used.

This is not an argument that favorable outcomes excuse unfair methods. It is an argument that fair methods should not be designed as if their practical purpose were optional. We must evaluate both the legitimacy of the decision and the reliability of its implementation.

A legal system cannot guarantee a happy family. It should be able to explain what it is doing, what it is protecting, what remains uncertain, and how it will discover that its chosen response is failing.

That is where prospective justice begins. Not in a promise to control the future, but in a refusal to treat the future as somebody else's responsibility until it becomes a record of the past.

Justice is not merely the opportunity to prove later that a child should have been protected sooner.

It is the obligation to make protection meaningful while there is still something to protect.

CHAPTER 3

The Choices That Are Not Choices

The family ledger

A parent may be told that several avenues remain available: hire counsel, prepare a motion, seek review, obtain a record, request clarification, or return for enforcement. The existence of an avenue is important. It does not establish that the parent can use it without sacrificing other obligations to the same child.

These choices belong on the same scales. The money sought for legal help may also be the money needed for housing. The hours required to assemble a record may also be the hours available for paid work. The effort to protect a relationship can compete with the effort to preserve the material conditions in which that relationship would be lived.

The objection is not that protection should require no effort. It is that a process should not force a parent to dismantle one part of a child's future in order to ask for protection of another, without examining whether that conflict is necessary.

The question is not simply whether a remedy exists. It is what a family must give up to reach it.

Consider a hypothetical household with enough income to meet ordinary expenses but little financial margin. A substantial new legal expense does not compete with an abstract reserve labeled "litigation." It competes with the money available for transportation, rent, food, debt payments, treatment, school activities, or the emergency that has not yet occurred. Borrowing may defer the tradeoff rather than remove it. Self-representation may reduce the

invoice while transferring the work to hours the parent must find somewhere else.

The institution sees a filing fee, a professional charge, or a scheduled appearance. The household experiences the combined demand.

The distinction is not an argument that professional work should be free. Lawyers, clinicians, interpreters, investigators, and court employees perform work that requires time and skill. A functioning system must pay for necessary services. But the necessity of compensating professionals does not make every arrangement for financing access equitable, sustainable, or consistent with the interests of children.

A child's welfare should not be evaluated in one part of a proceeding while the resources supporting that welfare are treated as irrelevant in another.

The Legal Services Corporation's 2022 Justice Gap Study reported that low-income Americans received no legal help or insufficient help for 92 percent of the civil legal problems that substantially affected them. The figure concerns reported problems across civil legal needs, not the percentage of parents denied representation in family court. Its proper significance here is narrower: the availability of professional assistance cannot responsibly be assumed from the existence of a legal problem.[7]

Three burdens, not one

The first burden is direct financial cost. It includes the money a family must actually spend to participate: professional assistance, required records, travel, copying, and other case-related expenses. The amounts vary. The relevant question is the relationship between the demand and the household's ability to meet it without compromising basic needs.

The second burden is opportunity cost. An hour spent resolving a procedural rejection cannot also be spent earning income, helping with homework, attending a medical appointment, or resting

before the next workday. Not every hour of legal effort is wasted. Some work is necessary to establish facts and protect rights. But unnecessary repetition consumes the same finite life as necessary work.

The third burden is uncertainty. A parent may be able to plan for a known expense or a defined period of work. It is much harder to plan around a process that provides no reliable indication of how many additional steps will be required or when a request will receive substantive attention.

These burdens interact. An unaffordable bill may create more self-representation work. That work may reduce income. Reduced income may make the next necessary professional service less accessible. None of this requires a finding that every actor intended the result. It requires only an honest examination of how the demands combine.

A system should not count a transfer of work from a paid professional to an unpaid parent as a complete elimination of cost.

It should not count a parent's exhaustion as an efficient resolution.

And it should not assume that the parent who can sustain the process longest has thereby demonstrated the stronger claim.

Eight weeks on the family ledger

Return to Ari's family. To test the choices, suppose Sam's normal take-home income is $6,400 over the eight-week planning period and essential household obligations total $6,100. The remaining margin is $300. These hypothetical obligations include the household's ordinary support responsibilities; this is not an argument for withholding child support or displacing essential expenses.

A suitable private provider, if the court authorizes the change and the provider accepts the assignment, could offer four appointments during the period at $175 each. Travel would cost $20 per appointment. Each appointment would displace three paid hours, with a take-home loss of $20 an hour. The four appointments

may include assessment and preparatory work; their number is an accounting assumption, not a recommended treatment dose.

The private route therefore requires $700 in fees, $80 in travel, and $240 in lost earnings. Its effect on the household's available money is $1,020. Against a $300 margin, it creates a $720 shortfall. Eight additional hours of paperwork and coordination are assumed to occur outside paid work; they are recorded separately so that the same hours are not counted twice.

Here is the comparison. Every amount and time estimate is hypothetical. None measures the value of Ari's relationship with either parent.

Eight-week option	Fees and travel paid by Sam	Lost take-home pay	Margin remaining
Wait for North Clinic	$0	$0	$300
Four private appointments	$780	$240	−$720
Same appointments; fees funded	$80	$240	−$20
Two authorized remote preparatory appointments	$200	$40	$60

The last option assumes two $100 appointments, no travel charge, and two lost paid hours in total. It supplies a narrower service. It is not four appointments at a discount, a substitute for supported parent–child work, or permission to begin a service outside the existing order. Its suitability and authorization remain separate questions.

Waiting is the least expensive option in the cash columns. It is also the only option in this illustration that leaves the designated service entirely unavailable throughout the period. Calling it free would omit the very purpose for which the service was sought. Three unpaid administrative hours are assumed even for waiting; the unresolved question does not disappear because no invoice arrives.

Funding the professional fee comes close to making the second option accessible, but the remaining $20 deficit matters to a household whose essentials have already been accounted for. A fee waiver is not a transportation plan. Moving two appointments outside paid hours would reduce the assumed wage loss by $120 and leave a $100 margin. Whether those times exist must be confirmed, not presumed.

The remote preparatory option fits the stated margin but leaves the principal relationship work unfinished. It might be a responsible interim step or an unsuitable diversion. The provider and authorized decision-maker must explain which it is and why. The cheapest row cannot answer that question.

Taylor's costs also belong in the complete comparison. The table isolates one household to make the arithmetic readable; it does not imply that the other household supplies free transport, has no work obligations, or should absorb every shortfall. Nor should Ari be required to miss an important school commitment simply because that makes the adults' financial columns balance.

The assumptions are deliberately exposed. Increasing the appointment fee by $50 adds $200 across four appointments. Increasing the lost take-home wage by $10 an hour adds $120 across twelve displaced hours. A parent paid by the job rather than by the hour may lose an entire assignment. A parent with paid leave may preserve income while consuming leave needed for a later illness. Those are different facts, not different degrees of devotion.

The ledger makes one conclusion unavoidable within its assumptions: ordering the fully private route without addressing the $720 shortfall does not establish access. It establishes a demand whose financing has been left to compete with essentials. Borrowing moves the shortfall into the future, with whatever repayment burden follows; it does not turn the shortfall into evidence that the original instruction was feasible.

The proper response is not to price the relationship. It is to identify which expense serves a necessary purpose, who can bear

it, what it displaces, and what lawful alternative protects the child with less avoidable depletion.

Material resources deserve attention for more than accounting reasons. In a longitudinal natural experiment involving 1,420 rural children, E. Jane Costello and colleagues examined an income supplement associated with a casino opening. Children whose families moved out of poverty showed reductions in conduct and oppositional symptoms, but not anxiety or depression. The setting was not family litigation, and the study cannot convert a legal bill into a predicted diagnosis. It does show why resources should not be treated as irrelevant to children's functioning.[8]

The institutional inference is mine: a process concerned with a child's welfare should examine its own demands on the resources supporting that welfare.

The moral trap of endurance

The most troubling version of this problem is not a single high bill. It is the implication that devotion to a child should be measured by willingness to accept unlimited personal depletion.

Continue, and the parent may jeopardize the resources needed to support the child. Stop, and the decision may be interpreted as evidence that the concern was not serious. Become skilled at the procedure, and the hours required to acquire that skill may disappear from the institution's account of the burden. Fail to acquire it, and the resulting mistake may be treated as an individual deficiency.

This is not an acceptable definition of access.

There are legitimate reasons to reject unsupported claims, impose proportionate sanctions for abuse, or require parties to narrow disputes. Open access cannot mean that any litigant may impose unlimited burdens on everyone else. The challenge is to distinguish genuinely abusive repetition from repeated attempts to obtain a usable answer to an unresolved question.

That distinction requires reading what the filings seek, not merely counting them.

One unresolved implementation issue might generate an initial request, a response to a deficiency notice, a corrected submission, a request for status, and a later enforcement application. Those documents may or may not have been necessary. Their number alone cannot tell us. Conversely, a small number of filings can still be used oppressively. Volume is a signal to examine, not a substitute for examination.

The appropriate inquiry is whether the process is moving a supported issue toward a decision and whether that decision is reaching the family in practice. Where the answer is no, institutions should examine their own contribution before attributing the entire burden to the persistence of the person seeking relief.

Weighing the actual alternatives

The scales should include the option that is too often omitted: redesigning the pathway.

Instead of asking only whether a parent should spend more, learn more, or endure more, ask whether the next necessary step can be identified and completed with less avoidable burden. Could an initial review distinguish an urgent safety issue from a routine clarification? Could a complete deficiency notice prevent a sequence of separate returns? Could an implementation conference resolve a logistical disagreement before it becomes another broad contest? Could narrowly scoped legal assistance be made available for the issue that actually requires it?

These are proposals to evaluate, not claims that every case will benefit from the same intervention. Some families need substantial judicial attention. Some need specialized assessment. Others need an understandable answer to a limited question. Treating all of them as though they require the same pathway is not necessarily fair simply because it is administratively consistent.

A useful burden assessment would record direct expenses, time required, accessibility barriers, and the likely consequence of leaving the issue unresolved. It would not convert love or suffering into a numerical score. It would make visible the demands that institutional accounting otherwise leaves outside the frame.

Nor should cost control become an excuse to pressure a person into an unsafe settlement. A cheap resolution that leaves serious risk unexamined is not a successful reform. The objective is proportionate expenditure directed toward a fair and workable result, not a low price at any human cost.

Parents should be expected to participate responsibly. Institutions should be expected to make responsible participation possible.

The distinction between those duties is the difference between asking a family to do its part and making the family compensate indefinitely for a process that has not done its own.

CHAPTER 4

A Learned Profession Must Keep Learning

Expertise is a continuing obligation

A learned profession should be distinguished by the discipline with which it continues to learn.

The alternative is a peculiar arrangement: the public is expected to accept the authority of specialized knowledge, while the institution exercising that authority resists examining whether its practices remain consistent with what is known. Under that arrangement, learning becomes a credential obtained at entry rather than a responsibility maintained throughout practice.

I reject that arrangement.

The criticism is not that every lawyer must become a clinician or every clinician must become a lawyer. Different professions have different functions, methods, and limits. The criticism is that decisions affecting children should not be insulated from relevant knowledge merely because the knowledge originated outside the decision-maker's own professional vocabulary.

A court does not need to conduct a psychological study to recognize that a proposed intervention requires a competent evidentiary basis. A clinician does not need to decide a custody dispute to explain the purpose, limits, and observed effects of treatment. An administrator does not need to resolve the merits to recognize that an unresolved request lacks an assigned next step.

The professions should meet at the boundaries of their responsibilities rather than use those boundaries to leave the problem unattended.

What evidence permits us to say

Research should be used with more care than a slogan.

A study showing an association between family conditions and later outcomes does not establish that one event caused a particular child's difficulties. A successful intervention in one population does not prove that any intervention bearing a similar name will work in another. A published finding is not a license to ignore abuse, coercion, individual differences, or the child's own account.

Those limitations are not reasons to disregard research. They are instructions for using it properly.

Preventive intervention is not merely an aspiration. In a six-year follow-up of a randomized trial, Sharlene Wolchik and colleagues reported benefits on several adolescent mental-health and behavioral outcomes from programs designed for families after divorce. Some effects depended on initial risk, and the interventions were specific programs rather than a general command to cooperate. The study supports investigating and delivering tested preventive support; it does not establish that all court-ordered services are effective.[9]

Fathers also belong within this evidence-based approach. A randomized trial of the New Beginnings Program–Dads included 384 divorced or separated fathers. The program targeted parenting skills, communication, discipline, and protection from interparental conflict. Researchers reported improvements in parenting and certain child outcomes at follow-up, with many effects varying according to baseline characteristics and family or child factors. This is evidence for developing the quality of fathering, not a scientific warrant for contact regardless of safety or circumstance.[10]

Together, these studies support a more demanding question than whether a parent has been assigned a service: What support is

appropriate, what mechanism is it intended to change, and what evidence will show whether it is helping?

That question applies to mothers and fathers alike. Supporting a loving and involved father does not require denying the importance of a loving and involved mother. Protecting a child from harmful conduct does not require assigning virtue or danger by parental title. The unit of concern is the child's actual experience of care, safety, relationship, and development.

An institution should be able to hold those propositions at the same time.

Relationships are not interchangeable units of contact

The central claim of this book does not require pretending that all separations have the same meaning. Divorce is not identical to the loss of a safe relationship. A parent can live elsewhere and remain reliably involved. A parent can live in the home and be frightening or emotionally unavailable. A contact schedule can create opportunities without creating trust. The question is what the child actually experiences.

Valarie King and Juliana Sobolewski examined 453 adolescents with nonresident fathers. Relationship quality and responsive fathering were modestly associated with fewer behavioral and emotional problems. Mother–child relationship quality had stronger associations, and adolescents with weak ties to both parents generally fared worst. This observational analysis supports attention to the substance of both relationships; it does not establish a causal effect of a particular schedule or justify sacrificing safety for contact.[11]

The significance is not a contest between mothers and fathers. An institution should investigate the loss of an important safe relationship rather than treat the parent's residential label as an answer to whether that relationship matters. It should also ask what makes the relationship supportive, not assume that time alone supplies those qualities.

Longer follow-up complicates any simple "more contact is always better" argument. Kathryn Modecki and colleagues followed 156 offspring from adolescence into young adulthood. The profile combining moderate nonresident-father involvement with lower interparental conflict had better outcomes on some measures than profiles with either higher or lower involvement and more conflict. The sample was small and predominantly White, and profile membership was not randomly assigned. The study is also drawn from the broader New Beginnings research program, not an independent replication of every finding discussed here.[12]

A responsible response to that finding is to address conflict and the quality of involvement together. It is not to reward an adult for creating conflict by making the other relationship expendable. Neither is it to dismiss conflict because contact has value. Which adult is doing what, what the child experiences, and what can safely change are questions requiring evidence in the individual case.

A separate analysis by Karey O'Hara and colleagues followed 559 children aged nine to eighteen after divorce. Earlier interparental conflict predicted later fear of abandonment, which in turn predicted subsequent mental-health problems in the statistical models. The expected protective buffering by relationship quality was not observed as hypothesized. These were observational pathways within a prevention-study sample, not a trial assigning children to conflict. They caution against assuming that a warm relationship automatically cancels the effects of ongoing conflict.[13]

There is broader evidence that the adolescent years remain important. Carol Ford and colleagues examined adolescent relationship reports and young-adult health in Add Health, with 10,744 observations in the mother-relationship analysis and 8,214 in the father-relationship analysis. Positive perceptions of both relationships were associated with a range of more favorable later outcomes. The study did not permit detailed analysis of relationships with nonresident parents, and unmeasured factors remain possible. It therefore supports attention to adolescent relationships generally, not a causal estimate of court-imposed separation.[14]

Taken together, these studies justify careful attention and better questions. They do not supply a formula for assigning a child's residence. They also do not justify telling a teenager that parental support has ceased to matter simply because independence is growing.

Read the study before borrowing its authority

A useful evidence assessment begins with the question the study actually asked. Who was included? Who was excluded? What was measured? Was the comparison randomized, observational, or qualitative? How much information was lost at follow-up? Did the reported finding concern symptoms, participation, relationship quality, contact frequency, or some other outcome?

Next comes the question of transfer. Evidence from divorce, bereavement, incarceration, institutional care, and forced migration cannot be pooled rhetorically as though each estimates the effects of the same experience. There may be relevant mechanisms across settings, but different causes, protections, and populations require an explanation of why the comparison is useful.

Then examine the alternative accounts. Earlier family difficulties may influence both later arrangements and later outcomes. Better-functioning parents may be more able to maintain contact. A child's distress may affect parental behavior as well as respond to it. Statistical adjustment can address measured differences; it does not guarantee that every relevant difference has been removed.

Finally, state what the evidence changes in the proposed decision. A study can justify assessing a neglected relationship or testing a preventive service without proving which parent should prevail. An absence of direct research on a particular procedural failure does not establish that the failure is harmless. It limits what can responsibly be claimed about its effects and makes evaluation more important.

For Ari, the confirmed waiting period is an operational fact. The possibility that supportive contact could matter is informed by

relationship research. The suitability of a particular intervention requires assessment. A conclusion about responsibility for the family rupture requires the evidence and standards of the actual proceeding. No single citation can do all four jobs.

A learned profession should make those distinctions without requiring a parent to acquire a research degree first. It should also recognize the practical limit of caution: when the supported issue is an unavailable appointment, the absence of a randomized trial of that exact waiting list is not a reason to leave the referral unexamined.

Treatment is not a word on an order

There is a difference between recommending help, arranging help, receiving help, and benefiting from help.

A referral without a provider is not treatment. A provider without an available appointment is not access. An appointment without transportation or a workable payment arrangement may remain only a date. Attendance, in turn, is not proof that the intended therapeutic objective has been achieved.

That sequence should make professionals more interested in implementation, not less.

A larger randomized effectiveness trial of the New Beginnings Program recruited through family courts and used community providers. Among the 445 participants assigned to the longer program, nearly a quarter attended no sessions, and average attendance was 5.59 of ten sessions. These figures do not explain every individual's nonattendance. They show why assignment to an intervention cannot be treated as equivalent to receiving its intended dose.[15]

The practical inquiry should begin without a presumption of defiance. Is the service available? Does the person understand its purpose? Is it affordable? Does its timing conflict with work or caregiving? Is the intervention suitable for this family? Are language, disability, transportation, safety, or trust barriers preventing

participation? Is the requested information necessary for the legal issue, or is the process demanding disclosure that may compromise treatment without adding useful evidence?

These are questions for an accountable system, not excuses to disregard an order. Deliberate refusal may require a different response from lack of access. But the distinction must be investigated rather than assumed.

Nor should research on preventive parenting programs be presented as validation of every practice described as reunification therapy. The purpose, methods, risks, eligibility criteria, and evidence of each intervention matter. An attractive label cannot supply what an assessment has not established.

A child's participation presents a related question of role. Hearing an adolescent's concerns is part of understanding the case; transferring scheduling, communication, or the reconciliation of conflicting adults to that adolescent is a different act. Chapter 6 develops that distinction. Here, the professional obligation is to avoid turning either a preference or a research finding into an explanation that has not been established.

The professional test

The legal profession's own model standards recognize that competence must be maintained. The American Bar Association's commentary to Model Rule 1.1 calls for keeping abreast of changes in law and practice and continuing study and education. That model commentary is not itself a finding that a particular professional violated an enforceable state rule. It is evidence that continuing learning belongs within the profession's stated conception of competence.[16]

The standard proposed in this book goes further in its practical emphasis. Relevant learning should be visible in what changes.

A training session is an input. Revised practice is an intermediate step. Better-supported decisions and fewer preventable failures are

the intended result. An institution should not count the first as proof of the third.

Professionals will disagree. Evidence will evolve. Some interventions will disappoint. The responsible response is to identify the uncertainty, compare alternatives, monitor consequences, and revise. The irresponsible response is to convert the inevitability of uncertainty into a permanent exemption from evaluation.

Respect for expertise is not a promise never to question it. It is a willingness to examine the reasoning, evidence, and discipline that make expertise worth respecting.

A profession does not demonstrate that it understands a family's burden merely by acquiring a more sophisticated vocabulary for describing it. Understanding should influence the burden it imposes. Where a requirement is necessary, explain and support it. Where a practice is not serving its purpose, reconsider it. The family should not be made to carry the cost of professional familiarity after the justification for a practice has failed.

A profession should not demand the benefits of being learned while declining the obligations of learning.

CHAPTER 5

The Public Is Not a Failed User

What technical service taught me

When I worked in information technology, I did not regard a client's unfamiliarity with my profession's vocabulary as a reason to withhold useful help.

A person already dealing with a failed service should not have to become competent at my profession before my competence becomes useful to them. Expertise is supposed to carry part of the difficulty. It should not simply hand that difficulty back in unfamiliar language.

That is the comparison I bring to public service. A parent arriving with a serious concern should not leave with the original concern untouched and a new assignment to master the institution's internal vocabulary. Necessary rules must remain, but understanding how to comply with them should not become another avoidable weight.

I could understand the acronyms. That was part of my job. The client needed to understand the problem well enough to make a decision, complete the necessary step, and continue working. Explaining a technical issue in language the client could use was not a departure from expertise. It was one of the ways expertise became service.

A client who could not explain a network failure in an engineer's vocabulary had not thereby forfeited a functioning network.

That comparison is deliberately modest. A court is not a help desk. A legal dispute may involve competing rights, conflicting

accounts, evidentiary limits, and questions a technical support interaction does not present. No administrator should decide the merits by treating one party's requested result as a customer-service obligation.

But the difference between those settings does not eliminate a shared responsibility: when an institution requires people to use a specialized process, it should explain the process in a form those people can reasonably understand.

That is not preferential treatment. It is competent design.

A service interaction, not a vocabulary examination

Consider an illustrative support call. A client reports that an application cannot connect. An engineer could reply that the authentication token is invalid and that the client must refresh the session against the correct identity provider. Every word might be technically defensible. The client may still have no usable next step.

A service-oriented answer would identify the affected application, explain the action the client can safely take, distinguish it from work reserved to the engineer, and confirm whether the connection was restored. If resetting the session would destroy unsaved work, that risk belongs in the explanation. If the engineer lacks access to the relevant system, the request should be transferred with its history rather than returned as a new problem for the client to describe again.

The comparison concerns responsibility, not unlimited accommodation. An engineer should not bypass security controls to satisfy a frustrated user. A court employee should not bypass notice or confidentiality to satisfy a frustrated litigant. In both settings, however, preserving the safeguard is compatible with explaining the permitted route through it.

Now translate the interaction into a hypothetical filing return. The required case number identifies the matter; a separate proposed order identifies the requested direction; the service information

enables a response. Those purposes should be stated plainly. "The proposed-order attachment is missing; attach a separate document stating the order you are asking the judge to enter" is different from telling the litigant which order to seek. The first explains an institutional requirement. The second risks becoming legal advice.

A useful notice would also state what the return means for the submission date under the actual governing rule and where neutral assistance is available. That information must be accurate. An accessible explanation of the wrong rule is still a failed service.

My professional comparison ends where adjudication begins. A network has no opposing party entitled to contest the user's requested repair. A family dispute does. But that difference gives notice and evidentiary safeguards a reason to exist; it does not give unexplained terminology a reason to persist.

Complexity is not the same as precision

Some legal concepts are genuinely difficult. Some distinctions have consequences that require careful language. It does not follow that every difficult sentence expresses a necessary distinction or that every unfamiliar expression protects an important right.

Experiments can help separate those questions. In a 2022 study, Eric Martínez, Francis Mollica, and Edward Gibson found that contract passages containing common legal-writing features were harder to understand and recall than simplified versions. Their findings implicated writing structure, including clauses embedded within other clauses, rather than merely a reader's lack of specialized legal knowledge. The study concerned legal language, not the whole of court procedure, but it undermines the assumption that difficulty is always inseparable from substance.[17]

The same researchers later examined lawyers. Across two preregistered experiments, lawyers also understood and recalled simplified contracts better and rated them more favorably on several measures. They rated simplified versions as equally enforceable. Those ratings were not judicial rulings on enforceability; the important finding

is that professional readers themselves did not require the more difficult register to recognize professional quality.[18]

The public therefore should not be told that plain language necessarily represents a lowering of standards. Sometimes it represents the removal of an obstacle that was never performing the work attributed to it.

A useful instruction can still be exact. It can state what document is required, why it is required, what information belongs in it, where it goes, how it must be provided to others, and what deadline applies. Technical terms can be retained where necessary and explained where they first appear. The object is not to eliminate legal knowledge. It is to stop making unnecessary linguistic difficulty a condition of participation.

The profession already recognizes a related duty within representation. ABA Model Rule 1.4 requires lawyers to explain matters sufficiently for clients to make informed decisions. That client-focused rule does not make opposing counsel the legal adviser of an unrepresented adversary. My broader argument is institutional: a public process should provide usable procedural information without confusing neutral explanation with taking a party's side.[19]

Design for the task people must complete

Imagine an illustrative electronic filing system that returns a document with only a rule number and a generic statement that the submission is deficient.

The message may be accurate. It may still fail to tell the person what action will correct the defect. The user must locate the rule, interpret it, determine which part applies, connect that requirement to the rejected submission, and decide whether the problem concerns content, format, attachments, service, or classification. A second attempt may correct one defect while leaving another undisclosed defect unresolved.

This is not an argument that a defective filing must always be accepted. It is an argument that a correction process should be designed to achieve correction.

A better notice would identify the affected document, the specific deficiency, the applicable requirement, a usable example where appropriate, and the available method for obtaining neutral procedural assistance. It would explain any deadline implications accurately. It would distinguish an administrative return from a judicial denial. Where rules permit a cure, the system should make the route to cure understandable.

The same principle applies to status information. A person should not have to guess whether "received" means a document has been accepted, entered on the docket, served, assigned for review, decided, or implemented. Those are different events. A well-designed status display should identify the event it actually records and avoid implying completion of steps that have not occurred.

The user does not need access to confidential deliberations. The user needs an accurate account of the process they are required to navigate.

Neutral assistance is not a merits advantage

The familiar objection is that helping one side understand procedure may compromise neutrality.

The objection deserves a precise answer. Assistance that recommends which substantive position to take is different from assistance that explains how to submit a permitted request. Predicting how a judge will decide is different from identifying where a required signature belongs. Rewriting a party's evidence is different from explaining which file types a system accepts.

A neutral service can be available to everyone, operate under published limits, and leave the legal merits entirely undecided. Its purpose is to permit participation, not to supply a favorable result.

Maine Rule of Judicial Conduct 2.6(C) expressly permits appropriate lawful steps to help an unrepresented litigant be heard,

including explaining procedural requirements and identifying available assistance. The rule is permissive, not an unlimited duty to supply strategy. Its importance is that understandable procedural explanation is compatible with the judicial role; silence is not the only form impartiality can take.[20]

Indeed, an inaccessible process is not made neutral by being equally confusing in theory. People arrive with different resources, languages, abilities, education, and access to professional help. The proposed response is not to excuse everyone from necessary rules. It is to make the rules intelligible and the required actions realistically achievable.

This responsibility extends beyond prose. A person may need an accessible document, an interpreter, a functioning telephone route, or a paper alternative when a digital tool fails. The institution should evaluate whether its pathway works for the people required to use it, rather than defining success solely by whether the software accepted a test submission from a trained employee.

Information should lead somewhere

An instruction is useful only if the instructed action has a destination.

A form that collects information no one reviews does not become a public service because the form is well designed. A status page that accurately displays an unassigned request indefinitely is an improvement in transparency, not a complete remedy. A chatbot that repeats an instruction more politely does not solve the problem of an unavailable decision-maker.

Technology should reduce avoidable work, expose missing steps, and help authorized people perform their responsibilities. It should not become a new layer through which the public must plead for the same inaccessible human judgment.

This standard applies to technology I build as firmly as to technology I criticize. A ProSe tool should be judged by whether it helps a person complete a legitimate task accurately, safely, and with less

unnecessary burden. It should preserve the source of information, make uncertainty visible, and keep consequential judgment with accountable human decision-makers. A polished interface cannot compensate for an unreliable account of the law or a missing route to action.

The objective is not to require every parent to become a procedural specialist with better software.

It is to make specialized competence serve the person who needs it.

The public is not a failed user of justice. Public institutions are responsible for examining whether the service they have designed can actually be used.

CHAPTER 6

The Child Must Not Carry the Order

Listening and transferring responsibility are different acts

There is a difference between asking a child what life is like and asking the child to solve the adults' dispute.

The child should not be the point at which the institution balances its unfinished work. A preference deserves to be heard. A fear deserves examination. Neither should become an excuse to make the child arrange the appointments, reconcile the adults, or accept responsibility for the success of an order.

The purpose of listening should be to understand what the child is carrying, not to discover which additional adult responsibility can be placed there.

Asking about the child's experience can supply information that no schedule or affidavit contains. Making the child responsible for implementing the order assigns a different burden.

A child's voice should change the quality of adult decision-making. It should not relieve adults of the obligation to make decisions responsibly.

This distinction becomes especially important in adolescence. A teenager's school demands, friendships, work, transportation, privacy, and growing independence deserve serious attention. A schedule that ignores those realities may be poorly designed. Yet respecting a teenager's developing autonomy is not the same as asking that teenager to administer parental obligations or interpret the scope of a court order.

The appropriate question is not simply whether the child has a choice. It is what the choice concerns, how it is presented, what consequences follow, and which responsibilities adults continue to carry.

A choice between two workable times is different from the responsibility to decide whether a parent will receive any meaningful relationship at all. A request for privacy is different from an adult's refusal to provide information that may lawfully be shared. A child's report of fear is different from an ordinary scheduling preference and requires a response appropriate to the concern.

Justice begins by refusing to flatten those differences.

What listening should accomplish

The 2022 joint statement of the Association of Family and Conciliation Courts and the National Council of Juvenile and Family Court Judges supports children's opportunity to express their views while cautioning against treating those views as automatically determinative. It calls for individualized examination of contact problems, safety screening, attention to multiple possible causes, and proportionate services.[21]

That guidance is not a finding about a particular family. It is a professional rejection of premature certainty.

The reform proposed here starts with a corresponding discipline: hear the child without requiring the child to supply a complete theory of the case. A teenager should be able to describe an experience without knowing whether a lawyer would call it relevant, whether a clinician would consider it diagnostic, or whether an adult will approve of the description.

Listening also requires an explanation of what will happen to the information. Who will receive it? What confidentiality can and cannot be promised? How will safety concerns be addressed? Will the child receive an understandable explanation of the eventual decision? These questions should be resolved through appropriate

professional and legal procedures, not improvised by a parent seeking a useful statement.

A 2018 Australian Institute of Family Studies project interviewed 61 children and young people aged ten to seventeen, with background interviews from 47 parents. Participants described mixed experiences of family-law services; recurring concerns included being heard, receiving information, and understanding decisions affecting their lives. The self-selected qualitative sample does not establish prevalence in Maine or prove that one model works everywhere.[22]

Its practical challenge is nevertheless relevant: a process can discuss children extensively while leaving the children themselves uncertain about what is happening.

The answer should not be to expose them to the complete adult dispute. It should be to provide an age-appropriate account of the decisions that affect them, delivered by an appropriate person, without recruiting them to either parent's argument.

Preferences deserve respect, not automatic interpretation

Consider a hypothetical adolescent who says, "I do not want to go."

The statement deserves attention. It does not, standing alone, explain its own cause. The adolescent may be describing fear, an experience of mistreatment, a conflict with schoolwork, discomfort after a prolonged separation, anger about a previous interaction, pressure from another person, or something not yet identified. More than one consideration may be present. The task is not to select the explanation most compatible with the adult's existing position.

The AFCC–NCJFCJ statement specifically cautions against immediate labeling and against using findings about studied groups to determine an individual family's circumstances.[21] The proposed

institutional response should preserve that restraint while requiring an actual next step.

"More information is needed" ought to be followed by who will obtain it, through what appropriate means, and when the concern will be reconsidered. It should not become a way to leave the same question suspended indefinitely.

Nor should the child be interviewed repeatedly until someone obtains a preferred answer. A process intended to respect a child's voice should not make the child responsible for satisfying every adult's skepticism. Where further assessment is needed, its scope, purpose, and professional basis should be clear.

A refusal should not automatically be treated as proof of manipulation. It should not automatically be treated as proof that the other parent is dangerous. It should not be ignored because an adult has invested money, effort, or hope in a particular outcome.

Respect means taking the statement seriously enough to understand it, not using it as a shortcut around understanding.

Separate feelings from adult tasks

No order can require genuine trust to occur on demand. Many practical acts, however, can be assigned and reviewed without pretending to control feelings.

Adults can confirm an authorized appointment. They can identify a permitted communication channel. They can disclose a scheduling obstacle to the appropriate person. They can refrain from disparaging commentary. They can comply with protective arrangements. They can obtain clarification of an uncertain obligation rather than ask the child to interpret it.

This distinction prevents an important category error. The inability to command affection does not establish the impossibility of arranging a clinically appropriate service. Conversely, the ability to arrange a service does not establish that the service is clinically appropriate.

Both questions must be answered.

In a hypothetical case with an existing, lawful plan for a professionally supported meeting, the adults might identify two feasible times after confirming availability with the provider. The adolescent could be asked which fits better, with a separate opportunity to communicate a substantive concern to the appropriate professional. A newly reported safety concern would not be reduced to a calendar issue. An ordinary conflict with an activity would not automatically be transformed into a final decision about the entire relationship.

The adults would remain responsible for arranging transportation, confirming the appointment, and resolving their own disagreement through a permitted process. The professional would remain responsible for judgments within the professional role. The court would retain decisions reserved to it.

The child would participate without becoming the scheduling office, messenger, legal interpreter, and enforcement mechanism.

When listening changes the answer

Suppose Ari says that the proposed first meeting feels like an examination that must be passed to stop the adults arguing. Sam interprets the refusal as proof that Taylor has discouraged contact. Taylor interprets it as a complete answer against further work. Those are the adults' competing interpretations. Neither is established by Ari's statement.

An appropriately qualified professional, working within a defined role and explaining the limits of confidentiality, learns that Ari is especially concerned about being questioned in front of both parents and having private comments repeated afterward. There is no need to manufacture a diagnosis from that concern. It is specific enough to require attention to the proposed setting and information-sharing plan.

In the illustration, Ari's first appointment becomes an individual assessment after the necessary authorization is obtained. The adults' initial proposal to begin with a joint meeting is not adopted. Sam's request for immediate unsupervised time is not granted. The

decision-maker explains what further information is needed and sets a review rather than treating the postponement as a permanent conclusion about the relationship.

This is a material consequence of listening. Ari has not merely been invited to speak before the adults do what they already intended. The method has changed. At the same time, Ari has not been assigned responsibility for finding another professional, paying the bill, explaining the order to Sam, or protecting Taylor from Sam's disappointment. Adults carry those tasks.

A different report would require a different response. A credible account of threats, abuse, or immediate danger must enter the appropriate protective process; it cannot be processed as a preference for a different appointment format. A question about an exam or work shift may require a scheduling change rather than a new assessment. Competence lies partly in telling those categories apart without deciding in advance that every objection belongs to the most convenient one.

The account remains fictional. It demonstrates a standard for the response, not a clinical conclusion that an individual appointment is the right intervention for every reluctant adolescent. The important point is that a young person's information can change what adults do without making the young person responsible for operating the case.

Information is not recruitment

A child may need to know that a schedule is changing. The child does not need to be made responsible for deciding which adult's legal argument caused the change.

A child may need reassurance that an adult is seeking help. The child does not need a curated packet demonstrating why the other household should be condemned.

There is a useful test for an adult considering whether to share litigation-related information: What task does the child need this information to perform? If the real purpose is to secure agreement,

loyalty, testimony, vindication, or sympathy for the adult, the communication deserves reconsideration.

This is a proposed parental discipline, not a claim that every discussion of a proceeding is harmful or forbidden. Some children require clear information about protective measures, available support, or decisions directly affecting them. Accurate explanation can be necessary. Recruitment is different: it asks the child to join the adult's side of the conflict.

The same restraint should govern public advocacy. Parents can criticize institutions, seek reform, and describe their own experiences without treating a child's private disclosures as an unlimited public resource. A persuasive account does not become more responsible merely because every available detail has been disclosed.

The child should not have to surrender privacy so that an adult's grievance can become more compelling.

It is easy to instruct parents to communicate. The more difficult task is to specify a form of communication that is safe, permitted, relevant, and realistically sustainable.

Direct contact may be inappropriate or prohibited. In such circumstances, the solution must respect the applicable restrictions. A designated platform, counsel, a neutral professional, or another authorized channel may be appropriate. None should be assumed available without examining the actual circumstances and authority.

A workable framework should distinguish urgent safety information, ordinary child-related logistics, and argument about the litigation. Treating them as the same category can obscure the action that is actually needed. A message about an appointment should identify the appointment and the requested response. A contested legal interpretation should be addressed through the route authorized to resolve it.

The institution should also ask whether the channel can function without requiring a child to bridge a gap. An application that an adult cannot access, a telephone number that is unavailable, or a

referral requiring an unprovided authorization is not a functioning arrangement merely because it appears in an order.

When the channel fails, the answer should not be to make the child carry the message instead. It should be to identify and repair the failure, subject to necessary protections.

Adult responsibility includes making the adult system usable.

A child should not be left to infer that a parent stopped caring merely because the adults failed to arrange something. Nor should the child be given an accusation disguised as an explanation.

An appropriate adult might say, in a suitable setting: "The arrangements are the adults' responsibility. You can tell the appropriate person what concerns you. You do not have to carry messages between us." The exact wording would depend on age, safety, and the professional context. The principle is that explanation should reduce the child's administrative and emotional assignment, not enlarge it.

The adult seeking contact also bears responsibility. A child's hesitation should not be met with a demand to prove love, gratitude, or allegiance. The parent may need to acknowledge an injury, change a behavior, respect a boundary, or accept professional guidance. Seeking protection from obstruction does not excuse the requesting parent from examining that parent's own conduct.

The adult providing daily care bears responsibility as well. Respecting the child's views should not be used as a substitute for completing supported, lawful, and safe adult tasks. Where those tasks are disputed, the dispute should be presented honestly rather than hidden inside an attribution to the child.

Institutions must hold their share of the responsibility. They should not issue directions whose operation depends on a minor resolving the very disagreement the adults brought to court.

A child may have a meaningful voice without carrying the order.

The purpose of adult authority should be to make that distinction real.

CHAPTER 7

The Courtroom and the Clinic

A shared concern does not create an interchangeable role

A courtroom and a clinic may both be concerned with a child's welfare. They do not perform the same work.

The weight carried into either room should not be mistaken for proof of its cause. Distress deserves attention; it does not identify, by itself, who is responsible or which intervention is appropriate. Nor should treatment be asked to make a person comfortable with a preventable administrative failure that remains uncorrected.

A service should not merely help a family describe the burden more precisely. Within its proper role, it should contribute to understanding what support is needed, what conditions require attention elsewhere, and what should change.

A legal decision allocates authority, determines rights and obligations, and may compel conduct. A therapeutic relationship seeks to address identified clinical needs through an appropriate professional process. When the two meet, their responsibilities must connect without being confused.

The American Psychological Association's 2022 Guidelines for Child Custody Evaluations expressly distinguish forensic custody evaluations from advice and support supplied in ordinary psychological treatment. The guidelines are aspirational professional guidance, not a declaration that every recommendation is an enforceable legal requirement.[23]

The distinction is not a technicality. A treating professional may know important things about a patient's experience without

having assessed every disputed event or every member of the family. A court may have authority to resolve a dispute without having the clinical basis to select or alter a treatment method. Neither title erases the limits of the role.

This chapter proposes a working boundary: legal authority should not manufacture clinical certainty, and clinical language should not conceal the exercise of legal power.

Where a consequential recommendation crosses that boundary, the decision-maker should ask what information supports it, who is authorized to make it, and how the affected people may seek clarification or review.

Do not let the adjective do the work

"Therapeutic" should describe a defensible purpose and method. It should not function as a word that ends inquiry.

An intervention should be explainable in terms that a family can understand. What problem is it intended to address? What is the proposed approach? What information supports its use for this person? What are its limits? What would count as improvement, deterioration, or a need to reconsider?

Those questions do not require a clinician to guarantee success. They require the difference between a justified attempt and an indefinite assignment to be made visible.

The AFCC Guidelines for Court-Involved Therapy address role boundaries, specialized competence, informed consent, fees, confidentiality, and communication. They caution against opinions that exceed available information and the therapeutic role.[24] They provide a professional foundation for asking concrete questions without pretending that a guideline itself validates a particular service.

The proposal in this book is to require those questions at the point of referral, not only after a family reports that the arrangement has failed.

A clinician should not be asked to undertake an undefined task and then become the object of every participant's incompatible expectations. A family should not be required to finance an undefined task and then be blamed for asking what it is meant to accomplish.

Precision protects both the professional and the people receiving the service.

A referral is not an assessment

Consider a hypothetical order directing a family to participate in a named service. The provider receives the referral and discovers that the parties understand the assignment differently. One expects treatment, another expects a credibility determination, and a third expects the provider to decide when contact may expand.

Those are not merely disagreements about attitude. They are disagreements about the work.

Before the arrangement becomes an open-ended obligation, someone must clarify the referral question and the authority associated with it. A narrow treatment assignment should not silently become a comprehensive evaluation. A report about attendance should not silently become a recommendation on residence. A parent's willingness to participate should not be treated as consent to every future use of every statement.

A workable referral should identify the intended client or participants, the purpose of the service, the provider's acceptance of the role, and the legal framework governing participation. It should also identify how ambiguity will be resolved without requiring the child to mediate among adults.

The provider should be able to say that the requested task falls outside the provider's competence, that necessary information is missing, or that another service would be more appropriate. The court should be able to ask for an explanation sufficient to decide the legal question without demanding a conclusion unsupported by the professional work.

A genuine conflict between an order and the professional assessment requires an appropriate route to clarification; a clinical concern does not by itself change the order.

The worst design is one in which everyone recognizes the conflict and no one is responsible for resolving it.

A referral with a defined job

In Ari's example, "repair the relationship" is a desired direction, not a complete professional assignment. A usable referral would first ask whether supported parent–child work is clinically appropriate, what preparation is needed, and what conditions would permit it to begin safely. It would not ask the treating professional to determine the truth of every disputed allegation or decide legal residence.

The document would identify Ari and the relevant participating adults, the existing protective restrictions, the source of authority for assessment, and the provider's acceptance. It would confirm which consents or court determinations are required under the applicable law before work starts. If those prerequisites remain disputed, the disagreement returns to the authorized decision-maker; an appointment booking cannot supply missing authority.

The fee arrangement would identify what has been funded and what has not. In the fictional plan, four authorized appointments are a financial ceiling for an initial phase, not a command to produce reconciliation in four sessions. Any further service requires a clear recommendation, an available provider, and a workable financing decision. The professional must be free to explain that a different service is needed.

The reporting agreement would separate attendance information from clinical content. A limited administrative report might confirm whether intake occurred, whether a prerequisite remains unmet, and whether clarification is needed. A substantive recommendation would state its evidentiary limits and follow the required

disclosure and review process. The parent who pays does not thereby acquire unrestricted access to Ari's confidential statements.

At review, the clinician might report that joint work has not yet become appropriate. That is not necessarily failed treatment or parental defiance. It may be useful assessment information. The court must then address what obligations remain, what information is needed, and whether the present plan should change. The professional's report informs that decision without silently becoming the decision itself.

The same plan must be capable of recognizing adverse effects. Suppose the process creates repeated pressure for Ari to declare loyalty, or the provider identifies worsening distress associated with the session format. Those observations require clinical examination and a lawful route to reconsidering the arrangements. They do not automatically prove which adult caused the problem. Neither should they be dismissed because continuing the service would make compliance easier to count.

A useful review asks what was expected, what occurred, what competing explanations remain, and whether continuation is justified. It should compare the actual intervention with an appropriate alternative, not with the impossible standard of a perfectly harmonious family. A service can be useful without solving everything; it can also be inappropriate despite being faithfully attended.

Distinguish observation, report, inference, and decision

A reliable record should tell the reader what kind of statement is being made.

A professional observed a person become quiet during a session. A participant reported a difficult interaction at home. The clinician formed a working hypothesis about the silence. The court later made a decision about a disputed obligation. These statements may relate to one another, but they are not interchangeable.

An observation has a setting and a duration. A report has a source. An inference has assumptions and alternatives. A legal

decision has an applicable standard and an authorized decision-maker.

Losing those distinctions can give a limited piece of information a much larger apparent meaning. "The patient reported fear" should not be casually rewritten as proof of every alleged event. Nor should the absence of visible fear in one session be treated as proof that no harmful event occurred. The statement must retain the limits of what was actually learned.

The APA's 2022 evaluation guidelines emphasize developmentally appropriate methods and attention to the risks associated with the evaluation itself, including repeated questioning. They also address conflicts arising from multiple professional roles.[23]

The institutional practice I propose is simple: preserve the type of evidence as it travels. A summary should not turn an attributed report into an established event, a hypothesis into a diagnosis, or a treatment observation into an unqualified prediction.

This is also a responsibility of advocacy. A lawyer or parent should not remove qualifications because an unqualified sentence is easier to use. A court should not reward that editing by treating the resulting certainty as a feature of the original professional opinion.

Clinical knowledge is most useful when its limits arrive with it.

Confidentiality and accountability are not opposites

A demand for accountability does not justify unlimited access to another person's private clinical information.

At the same time, invoking privacy should not become an all-purpose substitute for identifying the information that can lawfully be shared. The appropriate response depends on the type of record, the person's rights, the governing law, and any relevant order or authorization.

Federal HIPAA guidance illustrates why precision matters. The Department of Health and Human Services distinguishes separately maintained psychotherapy notes from mental-health information in the medical record. HIPAA does not itself give pa-

tients or their personal representatives a right of access to those psychotherapy notes. Parental access to other information depends on the applicable personal-representative framework and state-law and safety-related limitations.[25]

The conclusion is not that a parent should receive everything or nothing. It is that the categories must be identified before a demand is granted or refused.

A service can often be examined at more than one level. The administrative question may concern whether an appointment is available. The treatment question may concern whether the intervention remains appropriate. The legal question may concern compliance with an order. Those questions do not necessarily require the same disclosure.

The proposed standard is necessity with explanation: identify the decision that must be made, identify the information lawfully needed for it, and protect information that is not necessary to that decision. Where access is restricted, the explanation should identify the actual basis and an available review route without disclosing protected information in the process.

A child's confidential treatment should not become a general-purpose evidence collection system for the adults. Nor should an essential administrative task remain unanswered because the request has been inaccurately treated as a demand for the child's entire private history.

Treatment needs an exit and a review point

A service should not become indefinite solely because no one has defined what would justify changing it.

Review is not a demand that every problem be cured on a fixed timetable. It is a requirement to examine whether the current course remains justified. Progress may be uneven. The absence of immediate improvement may have several explanations. Those possibilities should be considered, not resolved by assuming that

continuation is always prudent or that difficulty always proves failure.

The reform framework proposed here would identify a review point when a service is ordered or formally incorporated into a plan. The review would ask whether the service became available, whether participation occurred, whether the initial purpose remains appropriate, and whether the burden is proportionate to the expected benefit.

A clinical review should remain within clinical competence. A legal review should address the authority and obligations that belong to the court. Coordination should not require publication of every therapeutic detail.

A provider's lack of capacity should be distinguished from a parent's refusal. Inability to afford a service should be distinguished from unwillingness to participate. A clinically justified change should be distinguished from an elective cancellation. The labels matter because they determine what kind of correction is sensible.

Repeatedly ordering the same unavailable service is not an implementation strategy. Repeatedly expanding the service without examining benefit is not an evaluation strategy. An institution should be able to identify what new information would lead it to change course.

The danger in any measurable system is that the easiest number to collect becomes the thing everyone is asked to maximize.

Attendance can establish that a session occurred. It cannot, by itself, establish trust. A completed referral can establish that a request was sent. It cannot establish that treatment was appropriate or useful. A reduction in complaints can reflect improvement; it can also reflect that a person no longer expects a response. The explanation must be investigated rather than selected for its administrative convenience.

These are cautions about inference, not arguments against measurement. A better review would distinguish access, participation, clinical judgment, reported experience, and supported outcomes.

It would also state what cannot reasonably be inferred from the information collected.

No family should be treated as a failed production line because a relationship has not improved on the institution's schedule. No institution should be allowed to claim success because the family completed the institution's paperwork.

The courtroom and the clinic should meet at a disciplined boundary: clear questions, appropriate roles, necessary information, honest uncertainty, and a meaningful route to reconsideration.

A service is not justified by calling it therapeutic. It must remain answerable to the people it is meant to help.

CHAPTER 8

From Orders to Outcomes

The missing middle

Between deciding what should happen and establishing that it happened lies the work of implementation.

For a family, an order that cannot be made to work may leave the original burden in place while adding the burden of obtaining enforcement or clarification. The parent has secured words on paper but must still find a way to reach the promised result. The child continues living in the interval between the two.

The question is not whether an order looks complete from the issuing office. It is whether the responsibility it assigns can actually be performed, and whether an obstacle will reach someone authorized to address it before the family has to begin the argument again.

That work can appear unremarkable beside a contested hearing. It involves a telephone number, an appointment, an authorization, a transportation plan, a payment arrangement, a safe method of communication, or a date on which someone will check whether the arrangement is functioning. Yet the practical effect of an order may depend on precisely those details.

An instruction to cooperate can be sufficient where cooperation is available. Where a recurring disagreement concerns the meaning of cooperation, another general instruction may reproduce the dispute rather than resolve it.

The same is true of the word "reasonable." Flexibility is valuable when people use it to accommodate real life. It becomes a source of uncertainty when no one can identify the minimum required act, the circumstances permitting departure, or the route to resolving

disagreement. A workable order should preserve appropriate discretion without leaving its essential purpose dependent on indefinite future agreement.

The question is not whether every family needs a rigid schedule. It is whether the chosen degree of flexibility corresponds to the family's demonstrated ability to use it safely and constructively.

The Family Justice Initiative's 2019 Principles for Family Justice Reform offer an institutional starting point. Developed through a partnership of court and legal-system organizations, they emphasize court-led problem solving, service pathways matched to cases, safety-responsive practice, understandable assistance, and evaluation. They are reform principles, not proof that every jurisdiction has implemented them or that every recommended practice has the same evidentiary status.[26]

The proposition advanced here is more specific: an order directed toward a child's welfare should be examined for its ability to work before the family is left to discover its missing parts.

Six questions an operative direction should answer

First, what exactly must happen? The answer should identify an observable act rather than only a desired attitude. Providing permitted contact information, confirming an appointment, delivering an authorized document, or submitting a scheduling proposal can be observed. "Be more cooperative" may describe an appropriate expectation without identifying the act necessary to resolve the present problem.

Second, who is responsible? Responsibility should rest with a person or authorized institutional role, not float among "the parties," "the provider," and "the clerk" when none knows who must move first. Joint responsibility may be appropriate, but it should identify the contribution expected from each participant. An order should not assume that a nonparty provider has accepted duties or has capacity that has never been confirmed.

Third, when must the act occur? The deadline should correspond to the task, the risk, and the time needed for fair participation. A date is not automatically reasonable because it is short, nor is an indefinite period reasonable because the issue is difficult. The purpose of the deadline should be understandable.

Fourth, by what means? A communication requirement should identify a safe, permitted channel. A document requirement should identify what information is necessary and how it can be provided securely. A service requirement should account for availability, transportation, payment, accessibility, and any conditions essential to lawful participation.

Fifth, what happens if the expected step does not occur? A backup must not silently alter custody, erase protection, or impose a sanction without required process. It can instead require prompt notice of the obstacle, identify an alternative logistical step, or trigger review by the person authorized to resolve it.

Sixth, when and how will the result be reviewed? Review should examine whether the intended act occurred and whether the arrangement remains appropriate. A date for review prevents "temporary" from becoming a synonym for "unexamined."

These questions are a proposed implementation discipline. They are not a replacement for substantive law, professional judgment, or the right to contest an allegation. They make those protections more likely to produce an intelligible practical result.

From an aspiration to an operative direction

Compare two fictional directions in Ari's case.

The first says: "The parties shall cooperate with North Clinic and make reasonable arrangements for the child's participation." It expresses an expectation but does not answer the confirmed eight-week availability problem. Another exchange of accusations can occur while each adult claims to be following it.

The second identifies the next lawful work: the clerk will list a limited implementation review; each parent will provide permitted

scheduling information through the approved channel; the coordinator will obtain written confirmation of provider availability and fees with the parties' authorization; and the disputed request for a provider change will be presented to the judicial officer. Existing protective restrictions remain in force unless lawfully modified.

That second direction is still not complete without dates, notice, and feasibility. The fictional order specifies the review date, the response deadline, the protected method of submitting information, and the office that receives a report of an obstacle. It states that no adverse inference arises merely because a provider cannot offer a slot. Any allegation of deliberate noncompliance requires the appropriate separate process.

The provider has not been ordered, as a nonparty, to create capacity it does not possess. The coordinator has not been authorized to decide clinical suitability. Sam has not received the requested expansion of contact merely because the current service is delayed. Taylor has not acquired a veto over an authorized review. Ari has not become the messenger among them.

The difference is that responsibility has a destination. A person reading the second direction can identify what happens next and who can address a failure of that step.

The same method applies to a simpler records issue. Where access to specified school information is authorized and no applicable restriction prevents it, an implementation direction can identify who submits the necessary documentation, who confirms receipt, and where an unresolved school-side barrier is reported. Any obligation imposed on a school itself needs the appropriate legal basis and process. Repeating an entitlement does not establish that notices are actually reaching the authorized recipient.

Chapter 12 follows Ari's case through the proposed process in full. Here the test is the six-question discipline: act, actor, time, means, fallback, and review. Each answer should remove an uncertainty that would otherwise be handed to the family.

Correct the obstacle before enlarging the conflict

When implementation fails, the first useful question is what failed.

Was the direction unclear? Was the person unable to comply? Was a service unavailable? Did a safety issue arise? Did an adult deliberately refuse an act within that adult's control? Are the parties describing different events? Was the institution itself late in providing something essential?

Those possibilities call for different responses. Treating all failure as defiance can punish inability. Treating all failure as misunderstanding can excuse deliberate obstruction. Treating all disagreement as ordinary conflict can conceal coercion. The appropriate response depends on evidence, not the emotional convenience of the label.

Prospective clarification and accountability for a proven past violation should also be distinguished. The authority, notice, and findings required for each must be respected. But where lawful clarification can prevent another missed step, the system should not make that clarification wait unnecessarily for resolution of every dispute about past blame.

A parent asking who must arrange the next appointment should not automatically need to relitigate the entire history of the relationship to obtain an answer. Conversely, a limited logistical hearing should not be used to decide a major disputed question without adequate notice and evidence. Scope should be clear in both directions.

The goal is a proportionate response that resolves the actual obstacle while preserving the right to pursue any larger issue through the proper process.

A practical reform would make early implementation review an ordinary consideration when an order depends on several people completing interdependent steps. The decision-maker would set a review date or state why one is unnecessary. The interval would reflect the risk and complexity; an imminent safety concern cannot wait for a routine administrative checkpoint.

The review need not always be a lengthy hearing. It might begin with a concise report, a narrowly defined status conference, or another lawful procedure that gives affected parties an appropriate opportunity to respond. The point is to discover the obstacle before repeated failure becomes the family's settled experience.

The information requested should be limited to what the review requires. Confirming whether an appointment occurred does not automatically justify public disclosure of its clinical content. Confirming whether an authorized notice was delivered does not require broadcasting a child's private records. Measurement should serve the child, not create a new exposure.

A signed order is not proof of successful implementation. The test is whether a lawful, evidence-based direction is accomplishing its purpose fairly and practically—and whether failure reaches someone responsible for correction.

CHAPTER 9

The Usable Right to Be Heard

The door and the route beyond it

An open door is not a complete description of access.

The question is whether someone carrying the problem can get through it. A right that can be exercised only after mastering an unfamiliar process, obtaining an unaffordable record, or repeatedly correcting a preventable error may demand the very resources the underlying dispute has already consumed.

We should not call that an adequate measure of commitment. A parent's ability to carry more procedural weight is not a reliable substitute for examining the concern brought to the institution.

A person may enter a courthouse without knowing how to place a particular question before someone authorized to decide it. A document may reach an electronic system without reaching the docket. An item may appear on the docket without receiving the review the filer expected. A decision may issue without an effective means of implementation.

These are different stages. Treating them as interchangeable allows an institution to describe activity while the person seeking help remains unable to identify what happens next.

The right to be heard should not be reduced to the right to transmit material into an institution. The reform standard advanced here is that a person should be able to understand the permitted route, complete its legitimate requirements, receive an identifiable disposition, and use an available means of correction when something goes wrong.

That standard does not promise a hearing on every submission or a favorable answer to every request. It does require the institution to distinguish an answer from a receipt.

In information technology, the arrival of a support request is not the restoration of service. A ticket number matters because it gives the problem a location. It is not evidence that the problem has been solved. The same distinction should be available to a person asking a public institution for relief.

A record that permits examination

A meaningful challenge requires something to examine.

When a decision depends on disputed evidence, access to an adequate record may determine whether the challenge can be understood. The appropriate form of that record depends on the proceeding and governing rules. A transcript, an authorized recording, or an approved alternative may perform different functions; none should be assumed interchangeable without the required authority and process.

In M. L. B. v. S. L. J., the United States Supreme Court held that Mississippi could not deny an indigent parent appellate review of the evidentiary basis for a decree permanently terminating parental rights because she could not prepay record-preparation fees.[27] The decision concerned the exceptional gravity of permanent termination. It does not create a general entitlement to a free transcript in every custody dispute or civil appeal.

Its narrower holding should be described accurately. Its broader reform question should not be avoided: What becomes of review when the material needed to seek it is beyond the person's practical reach?

A system should answer that question expressly. It should identify the available record, its authorized uses, the applicable cost and assistance provisions, the request process, and the route to challenge a denial. Where an alternative is permitted, the person

should be told how to obtain approval and what the alternative must contain.

An instruction to pursue review is incomplete as public service when it omits the practical conditions necessary to make review possible.

A documented test of nominal access

In a randomized Philadelphia study, D. James Greiner and colleagues assigned 311 low-income divorce seekers either to an organization's effort to match them with a volunteer lawyer or to a lower-assistance route offering written self-help information and telephone answers. Within three years, 46 percent of the lawyer-matching group, compared with 9 percent of the comparison group, had obtained a divorce in Philadelphia County. Across the seven counties examined, the corresponding figures were 50 and 25 percent. These are assignment-group results, not a claim that every assigned participant received counsel.[28]

The study concerns largely straightforward divorce dissolution, not custody outcomes or Maine's courts. Its significance here is an observed difference between having a legal route in principle and succeeding in using it. It does not establish the contribution of every individual procedural requirement, and it cannot tell us that one website or one explanation would have eliminated the gap.

The implication for reform is more demanding than "publish better instructions." Instructions need to be tested against completion of the legitimate task. Some people may need legal representation or other substantial assistance. A service can be understandable and still require resources that are unavailable to its intended users.

That is why the IT comparison is a starting point rather than the entire solution. A clear correction notice can remove confusion about an attachment. It cannot replace legal judgment where the issue requires it, produce an unaffordable record, or make a person safe enough to participate. The institution must identify which kind of assistance the task actually needs.

The public example also changes what counts as institutional evidence. Counting people already inside the court says little about people who never manage to place their problem before it. An access evaluation should ask who could not begin, who could not continue, and why. Otherwise, disappearance from the process can be misreported as absence of need.

The procedural assistance discussed in Chapter 5 remains important, but it is not the endpoint. For review to function, the record, the decision, the applicable route, and the means of completing that route must connect. Where one of them is missing, identify that failure specifically. "You may appeal" is not a complete service answer to "What record may I use, how do I obtain it, and what happens if I cannot pay?"

One question should have one visible location

A practical reform would make the status of a request intelligible without making private case information public.

For an authorized participant, the system should distinguish receipt, acceptance for filing, docket entry, any required response period, judicial consideration where applicable, disposition, and the next required act. Not every request follows every stage. The route should reflect the proceeding rather than impose a fictional uniform sequence.

The important feature is that the status correspond to something real.

"Received" should mean received. It should not imply accepted. "Filed" should not imply granted. "Closed" should not imply implemented. When the next step belongs to someone else, that responsibility should be identified by role and an appropriate channel, not left to be inferred from silence.

This would also improve the institution's ability to distinguish repetition from unresolved work. Three copies of the same request may be unnecessary duplication. Three submissions may instead represent an initial request, a correction demanded by the system,

and a response to a newly identified defect. Counting documents without understanding their relationship can obscure the actual problem.

The proposed remedy is not unlimited filing. It is traceability: connect a corrected submission to the earlier one, identify what changed, and make the current request and disposition clear.

A family should not need to build a second case-management system merely to determine whether the first one has received the question it was asked to decide.

Finality and correction must coexist

No functioning court can reconsider every issue indefinitely. Repetitive proceedings can consume resources, burden other people, and delay the decisions of other families. A serious access argument must recognize that the institution serves more than the person currently asking for attention.

But finality should not become a word that prevents a distinction between an old disagreement and a new implementation failure.

A challenge to the merits of a completed decision is one kind of request. A request to clarify an ambiguous direction is another. A claim that an existing obligation has not been performed is another. New circumstances may present a further question under the applicable law. Their legal routes and thresholds may differ. Public guidance should help people identify those differences without promising that any particular route is available in their case.

Where restrictions are lawfully imposed on repetitive or abusive submissions, the institution should make their scope understandable and preserve whatever legitimate routes the governing law requires. The answer to misuse should be proportionate control, not a presumption that every future concern is imaginary.

The person seeking relief has reciprocal duties: present the issue accurately, disclose material contrary information, use permitted channels, respect orders, and avoid substituting volume or hostility

for a precise request. The institution should not have to infer the requested action from a mass of unrelated material.

That reciprocity is not an excuse to ignore a supported problem because its presentation was imperfect. It is a reason to build a process in which relevance, correction, and a definitive answer are easier to identify.

Access ends with an answer that can be used

The financial burden of participation should be evaluated across the whole route. Removing a filing fee may leave substantial costs for records, transportation, time away from work, assistance, and required services. A reform should specify which burden it addresses and which burdens remain. It should not describe one waived charge as proof that the process has become affordable.

At the same time, publicly funded services require staff, training, secure systems, and sustained support. Affordability cannot be created by pretending that this work has no cost. The responsible question is how the cost should be allocated so that an essential route to protection is not effectively reserved for those able to bear it privately.

The design test should be a real task: can a person with a supported concern identify the appropriate route, obtain necessary help and records, present the question, understand the answer, and take the next lawful step without preventable confusion consuming the opportunity for relief?

That is a stronger measure than the number of forms posted online or the number of messages delivered to an inbox.

Access to justice is not complete when the public learns to imitate professional language. It is closer to complete when professional institutions make their legitimate requirements understandable and their decisions usable.

A right should not become practically unavailable at the exact point when a person needs to exercise it.

CHAPTER 10

Accountability That Produces Correction

An acknowledgment is not the end of the work

The first question after an institutional failure should not be how to describe it without accepting responsibility.

It should be what must happen now to keep the failure from continuing.

That question does not dispense with investigation. It establishes a purpose for investigation beyond the production of a defensible account. Someone must determine what happened, what remains uncertain, who possessed the relevant authority, and what response the evidence supports. But while that work proceeds, the family still needs an answer to the problem that brought it to the institution.

An appointment remains unavailable. A record remains inaccessible. An unclear direction remains unclear. A request that should have reached an authorized decision-maker remains unassigned. An investigation of those failures does not itself deliver the service, supply the record, clarify the direction, or assign the request.

Accountability should therefore have two connected results: an honest account of responsibility and a verified change in what happens next. One may require more time than the other. Neither should be used to excuse the permanent absence of the other.

This is particularly important when responsibility is contested. An institution should not have to accuse an employee of misconduct before correcting a misrouted notice. A family should not have to establish deliberate obstruction before an unavailable service

is reconsidered. A person whose conduct is under investigation should not be condemned merely because an interim safeguard is appropriate.

The practical obligation to address a supported problem is not identical to the legal standard for imposing a penalty. Confusing them creates a destructive choice: either prove a serious wrong immediately or accept that nothing will change.

There is a better sequence. Protect what can lawfully be protected. Preserve the relevant evidence. Establish responsibility through the appropriate process. Verify the correction. Revisit it when new information warrants doing so.

Name the failure precisely

"Accountability" becomes an empty demand when it treats every disappointing event as the same kind of wrong.

A legal error concerns the correctness of a ruling under governing law. An administrative failure concerns the operation of the institution. A professional-conduct issue concerns a duty owed by a person acting in a regulated role. A capacity problem concerns whether a required action is realistically possible. Deliberate noncompliance concerns an obligation that a person knowingly fails to perform despite the relevant ability and circumstances. An unresolved factual dispute concerns what has not yet been established.

These descriptions can overlap. They should not be collapsed.

Imagine a hypothetical parent who has not received a document. There may have been an incorrect address, a failed delivery, a lawful restriction, a misunderstanding about the document requested, or a deliberate refusal. The absence is observable. Its cause requires examination. A useful response first establishes what the document is, whether access is authorized, and where the delivery process stopped. It does not begin by selecting the most morally satisfying explanation.

Where the problem is a legal ruling, a reform should provide clear access to the legally available review route. An administrator

should not quietly reverse a judicial decision by reclassifying it as a service problem. Conversely, a judge should not have to decide a new contested motion every time an employee needs to correct a demonstrable transcription error in an administrative contact field through an authorized process.

Maine Rule 2.2 first requires prompt, fair, competent judicial and administrative performance. It then distinguishes legal error from misconduct: an error alone is not a Code violation without willful or repeated disregard of explicit legal requirements.[20] Both parts matter. The disciplinary limitation protects principled adjudication; it does not cancel the affirmative duty or make correction of an error unnecessary.

Where the problem is capacity, the response should examine the missing resource. An instruction to obtain a service cannot conjure an available provider. A deadline cannot create money that does not exist. The next responsible act may be to find an authorized alternative, reconsider the requirement, supply assistance, or explain why the obligation must remain while specifying what can actually be done.

Where the evidence supports deliberate obstruction, the response may need enforcement rather than another explanation of the same obligation. A serious system should not endlessly translate a clear instruction for someone who has understood it and chosen not to comply. Any sanction must still rest on the applicable requirements and a fair opportunity to address the alleged breach. Resolve the child's practical need as well; punishment of an adult does not automatically restore a service.

Where the problem is professional competence, training may be part of the response. It is not automatically the whole response. A person who has misunderstood a task needs instruction; a person who understands the task but deliberately misstates the record presents a different question. Institutions should not prescribe education as a ceremonial alternative to examining conduct.

And where the evidence remains insufficient, the conclusion should be stated accurately. "Not established on this record" is

different from "did not happen." It is also different from "we have no responsibility to examine the continuing practical obstacle."

Precision is not a retreat from accountability. It is what makes accountability capable of reaching the right person with the right corrective action.

Independence is not insulation

A judge should not decide a case to satisfy a campaign, a professional association, a popular commentator, or an angry litigant. The opposite of an insulated judiciary is not a judiciary governed by whichever audience can apply the greatest pressure.

The public needs independent judgment because public power can injure unpopular people as readily as popular ones. A sound reform must preserve the ability to make a lawful, well-supported decision that a powerful person dislikes.

Maine's Code combines protection against outside influence with affirmative responsibilities: Rule 2.4 bars influence from public clamor and improper interests, while Rule 2.5 requires competent and diligent judicial and administrative work.[20] Independence and performance are not competing labels from which an institution may choose the more convenient one.

The distinction should shape oversight. Examining whether a properly submitted request has been assigned does not require telling the judge how to decide it. Examining whether notices reached the authorized recipients does not require accepting either parent's factual account. Reviewing a repeated breakdown in access can leave the merits entirely untouched.

My proposed standard is to protect the independence of judgment while making the administration of responsibility observable. The institution should be able to show that the relevant question reached the proper decision-maker, that material steps were taken, and that the parties received whatever explanation and review the law requires. A report should not award a judge a better score

for favoring one class of parent or for disposing of difficult cases without adequate attention.

Oversight also needs independence from professional loyalty. A reviewer should disclose material conflicts, follow a defined standard, and explain the scope of the review. Professional expertise can help distinguish a genuine failure from a mistaken complaint. It should not confer an exclusive right to define the public's experience as irrelevant.

Meaningful public participation does not require a public vote on individual cases. It can include users testing instructions, independent assessment of administrative performance, and participation in governance where law permits. The design should preserve the expertise needed to assess conduct without making professional membership a condition of having an intelligible concern.

The institutional promise should be clear: no one purchases a favorable ruling through pressure, and no title purchases exemption from examination.

Repair should not depend on a verdict about motive

Consider a hypothetical case in which a time-sensitive implementation request loses its assignment when the presiding judge recuses. Seventeen days pass. Both parties receive accurate information that the matter remains pending, but neither receives an assignment or review date.

Suppose the problem is discovered through a complaint. The immediate administrative questions are straightforward: which official has authority to arrange reassignment, what work remains pending, and what should be preserved for the successor? The court need not decide that someone deliberately neglected the family before answering those questions. Nor should reassignment predetermine the requested relief.

A separate inquiry may reveal a failed handoff, a staffing shortage, a misunderstood instruction, or misconduct. That inquiry should preserve the original receipt date and the period of unassigned work.

It should not rewrite the record to make the correction appear instantaneous. A repaired process is not a reason to erase evidence of why repair was needed.

The example also shows why complaint systems cannot be treated as interchangeable with relief in the case itself. Maine's Committee on Judicial Conduct explains that it cannot alter court proceedings or decisions. The June 2025 order establishing the Committee nevertheless permits recommendations for informal correction of conduct or practices that may create an appearance of misconduct.[29] Those are distinct functions, not two descriptions of an appellate court.

A better public explanation would identify both the limit and the available responsibility. The complainant should understand that a disciplinary complaint is not a motion, does not itself change the order, and is not a substitute for pursuing an applicable review process. The institution should also identify any administrative issue it can actually examine rather than using the limits of discipline to end the entire conversation.

Healthcare offers a useful comparison. The federal Agency for Healthcare Research and Quality's CANDOR toolkit organizes a response to unexpected patient harm around communication, investigation, resolution, and institutional learning.[30] It is guidance for healthcare institutions, not evidence that the same program will improve family courts. The transferable question is narrower: can an institution investigate responsibility without making silence its default response to the people affected?

For courts, that would require different safeguards, including protection of adjudicative independence, proper notice, and limits on private case communications. The proposed administrative response should identify the known service failure and the corrective step without announcing disputed facts as findings.

"We have confirmed that the request was not assigned; it has now been routed for authorized review" is a service account. "You were right about the other parent" is a merits conclusion. A competent institution should know the difference.

Professional loyalty has limits

The lawyer's responsibility to a client does not require indifference to every avoidable burden imposed on everyone else.

That proposition does not turn opposing counsel into a neutral adviser. Counsel may contest a request, protect privileged information, require adequate proof, and resist a proposed arrangement the client has a lawful basis to oppose. A parent cannot convert disagreement with an adversary into an entitlement to the adversary's assistance.

The more serious question concerns tactics whose operative purpose is to make rightful relief unattainable through exhaustion.

Maine Rule of Professional Conduct 3.2 requires reasonable efforts to expedite litigation consistently with the client's interests. Its commentary distinguishes legitimate postponement from delay used to frustrate rightful redress and rejects improper delay as a legitimate client interest.[31] That is a professional boundary, not a promise that every request will be answered immediately or that every contested issue should disappear.

Rule 4.4(a) separately limits means having no substantial purpose other than embarrassing, delaying, or burdening a third person, and prohibits evidence-gathering methods that violate that person's legal rights.[32] Application depends on the actual conduct and its purpose. The existence of a burden alone does not establish a violation.

The standard I propose for practice is to make the reason for a material obstruction identifiable. What information is missing? Which condition is disputed? What lawful interest requires the proposed delay? What narrower alternative has been considered? A specific answer may establish a genuine need to wait. It may also reveal that a purported disagreement concerns one logistical detail that can be resolved without relitigating the entire relationship.

The same discipline applies to self-represented parents. An inbox should not become an instrument of punishment. A precise request, a relevant source, an appropriate response period, and a permitted escalation route are more useful than repeated accusations.

But an institution should supply a functioning route before relying on the existence of that route as an answer to repeated attempts to find one.

The goal is not gentler language around unchanged obstruction. It is a process in which a legitimate objection can be distinguished from an avoidable barrier and addressed accordingly.

A complaint worth reading deserves a response worth keeping

A complaint process should help a person identify the conduct at issue without demanding that the person complete the investigation before the institution will begin one.

The initial account should identify an event, the relevant actor or office, the affected duty or service, the available source, and the requested action. A person should be able to state that a cause is unknown. The absence of an internal audit log in a parent's possession should not be treated as proof that no audit is needed.

At the same time, seriousness requires completeness. A complaint should preserve a material response from the person criticized, relevant contrary evidence, and any prior disposition. Quoting the sentence that appears obstructive while omitting the paragraph that supplies a lawful explanation weakens the complaint and compromises the institution's ability to respond fairly.

I would require an acknowledgment that states what process has begun and what has not. Receipt is not a finding. Screening is not a merits adjudication. A referral is not confirmation that the receiving office has accepted responsibility. The complainant should not have to infer all of this from an automated message.

A proposed disposition should answer the question actually reviewed. Was the conduct outside the body's authority? Was the evidence insufficient? Was the allegation disproved? Was a problem established but addressed through correction rather than discipline? Was further investigation warranted? These explanations

need not disclose protected deliberations or private information to make the procedural result intelligible.

An adverse conclusion should not be softened into ambiguity for the sake of comfort. A supported conclusion should not be softened into ambiguity for the sake of institutional reputation. Both parties deserve to know what the reviewer decided within the limits of lawful disclosure.

Repetition requires similar care. Five copies of one complaint are not five independent incidents. Five different events involving the same failure are not necessarily a single complaint repeated. A review system should group duplicates while retaining the chronology of distinct events. Otherwise it may turn a recurring problem into an administrative nuisance by the way it counts the reports.

Protection against retaliation is essential. Maine Rule 2.16(B) specifically prohibits judicial retaliation against someone known or suspected to have assisted or cooperated with an investigation of a judge or lawyer.[20] A broader reform should define safe reporting channels and review adverse treatment rather than merely printing an assurance that concerns are welcome.

That protection should not become immunity for threats, fabrication, or unrelated misconduct by a complainant. Nor should legitimate enforcement become a pretext for punishing criticism. A fair process must be able to examine each issue on its own evidence.

The institution's reply should leave a usable record, not simply bring the correspondence to an end.

Six destinations for six different questions

A useful accountability map begins with the action sought, not the office that sounds most powerful. The following is a functional map for the proposed system. Actual jurisdiction, deadlines, and available remedies must be established under the governing law; a referral on this map does not extend a filing deadline or confer authority.

A disputed ruling belongs in the case's lawful review process. The question is whether the decision should be reconsidered, clarified, modified on an adequate basis, or reviewed on appeal. The required record, standard, timing, and proper court matter. A complaint to an administrator is not a substitute.

A routing or notice failure belongs first with an authorized administrative supervisor. The question is whether a document was received, accepted, assigned, sent, or delivered as the record says. The correction may be an accurate address, a restored link, or an assignment. The supervisor does not decide which parent is credible or overturn an order.

A supported allegation of judicial misconduct belongs with the designated conduct process. Its purpose and powers are distinct from case relief. A complainant may need both a timely litigation step and a conduct complaint; filing one does not establish the requirements of the other. Maine's published conduct procedures make that separation important.[29]

A lawyer's conduct belongs with the applicable professional regulator, while case remedies remain with the court. A request for an evidentiary ruling, costs, or another case-specific remedy must use the appropriate litigation process. The regulator's separate task is to evaluate duties within its authority. Neither an adverse ruling nor a grievance submission, by itself, proves a breach.

A clinical question belongs with the responsible clinical process; professional misconduct may require a different regulator. Whether an intervention is appropriate, whether a report exceeded its basis, and whether a professional duty was breached are related but distinct questions. A court may need to clarify its order while a provider reviews the service. The child should not wait for a professional complaint to finish before an unavailable appointment is addressed lawfully.

A resource or policy defect belongs with the people who can change the resource or policy. Court administration may control a queue; a rule-making authority may control a procedure; a legislature may control an appropriation or statutory power. Those

officials should receive a bounded description of the defect, its evidence, the change sought, and the limits on their authority over individual cases.

For Ari, these distinctions prevent a predictable failure. A report that North Clinic has no capacity is routed for an implementation decision, not dismissed because it fails to prove misconduct. A request for unsupervised contact reaches the judicial process, not the coordinator. A mistaken administrative entry is corrected through an authorized records process without pretending the entire family dispute has been resolved.

The map should be available with the acknowledgment, along with an explanation of what has actually been referred and how receipt will be confirmed. "Not our responsibility" is incomplete when the institution knows that a different office owns the next step but leaves the family to rediscover that fact.

Capacity must lead to a decision

Understaffing, competing emergencies, unavailable specialists, and inadequate funding can be real. A reform that ignores them will replace one unworkable promise with another. But a resource explanation should lead to a resource decision.

The responsible official should identify the missing capacity, the alternatives considered, and the interim arrangements available, then place the unresolved need before whoever controls the relevant assignment or funding. Repeatedly telling individual families that the institution is busy does not produce that decision.

Nor should reform quietly add an unfunded task to the same staff. Notices, implementation reviews, and contested records take time. A promised reduction in later disputes is a hypothesis to evaluate, not a saving that can be spent before it occurs. Chapter 12 exposes the staffing assumptions of the proposed process for precisely that reason.

Costs must remain visible wherever they fall. Requiring a parent to purchase an application, leave work, or print records already

held by the court may reduce the institution's expenditure while increasing the family's. A child's missed school event is still a loss when no invoice records it. The objective is a reliable route to a lawful and protective result, with public costs and private burdens both accounted for.

Where funding is necessary, identify it. Where a step serves no necessary safeguard, remove it. Where capacity remains unavailable, record the unresolved need and provide the lawful route to review. Do not advertise a remedy that the family cannot obtain.

Verify the correction without exposing the child

An office's announcement that it corrected a failure is the beginning of verification, not its substitute. The check should match the task: delivery for a corrected notice, assignment for a misrouted request, availability for a referral. Each has a limit. Delivery does not prove comprehension, and attendance does not prove therapeutic benefit.

A recurring failure also needs an appropriate test of recurrence. One successful transmission may resolve a single mistake without establishing that a defective notification process has been repaired. Closure should identify what was checked, what remains unresolved, and where contrary evidence can be submitted without requiring the family to reconstruct its original complaint.

The child must not become the institution's satisfaction survey. Administrative performance should be verified through adult responsibilities and appropriate records. Any inquiry into the child's experience needs its own legitimate, developmentally appropriate purpose—not a demand for praise, reconciliation, or emotional improvement so that a task can be closed.

Public accountability and privacy should be designed together. Aggregate reporting can expose aging requests and recurring failures without publishing treatment narratives. Removing names is insufficient when a school, date, unusual event, and family description

together identify a child. Independent reviewers may need lawful access to details that the public does not.

The same restraint applies to this book. A reform argument should not depend on making a child's most difficult words searchable forever. Personal recollection, preserved evidence, official findings, and unresolved allegations can be distinguished without turning every private record into a public exhibit.

Privacy must not become a shield for an unverifiable institutional claim. Reviewers should explain their standards and conclusions within lawful disclosure limits; public reporting should reveal whether the correction reached the family. The public needs enough information to judge the institution's work. It does not need ownership of the child's private life.

The correction is the answer

An explanation may establish that a difficult choice was justified, that an accusation was wrong, or that no preventable failure occurred. A serious critic should accept those conclusions when the evidence supports them.

Where a correctable failure is established, however, the response must reach further. What changed? Did the correction survive an appropriate test? Which burden no longer falls on the family? Which unresolved issue still needs a lawful decision?

The point of accountability is not to make a family better at proving that a system failed. It is to make the system less likely to fail the next family in the same way.

CHAPTER 11

The Problems of Tomorrow

Improvement must be more than an announcement

There will always be problems to solve.

That observation can express humility. It can also become an excuse. An institution may acknowledge imperfection so readily that the acknowledgment ceases to lead anywhere. Mistakes happen. Resources are limited. The work is difficult. No system is perfect. Every statement may be true while leaving the next family exposed to the same correctable failure.

The missing question is what changes because the failure has been recognized.

A serious answer identifies a specific correction, a responsible actor, the resources needed, a date for implementation, and evidence by which the correction will be judged. An answer that contains none of these may be an explanation of why the institution has not improved. It is not yet an improvement plan.

The standard should be demanding without being dishonest. No reform can guarantee that every child's life will become easier tomorrow. New dangers will arise. Some disputes will remain difficult even after competent intervention. But known failures should become less frequent, their consequences less severe, and their correction less dependent on extraordinary endurance by the people affected.

The problems of tomorrow should be of lesser severity than those of today.

That is the direction of travel I insist upon. Not the elimination of uncertainty. Not a promise of perfect families. The deliberate reduction of avoidable institutional harm.

An initiative is a beginning

The reform direction I advance through JTforME emphasizes whole-child history, workable orders, protected information access, visible elapsed time, and continuous improvement. These are proposals, not enacted law. The framework in the next chapter stands on its own; it does not incorporate a changing website or the text of a proposed Act by reference.[33]

For me, that initiative is a beginning, not a destination.

A proposal should not become immune from criticism because it was written in response to genuine injury. The remedy must be tested as carefully as the practice it seeks to replace. A new deadline could improve attention or encourage superficial decisions. A new screening requirement could identify danger or become another bottleneck. A new reporting system could reveal neglected work or consume the time needed to perform it. A new technology could reduce repetitive tasks or conceal responsibility behind automation.

The relevant question is not whether a proposal sounds protective. It is whether its design, authority, funding, operation, and consequences justify that description.

Any reform I advance should be subject to the same standard. Where evidence identifies a defect, correct it. Where a safeguard creates an unintended barrier, revise it without sacrificing the protection it was intended to provide. Where a practice does not deliver its promised benefit, do not preserve it merely because its author has become invested in defending it.

The purpose is better government, not a new set of people entitled to be right without examination.

Build a system that can discover its own failures

A public institution should not depend entirely on injured people becoming expert investigators of its operations.

Families will always have an important role in identifying problems. Their reports should be accessible, specific, and capable of producing a response. But a system responsible for important

decisions should also be able to identify its own unresolved work: requests awaiting assignment, failed notifications, repeated returns for the same correctable defect, implementation steps without confirmation, and temporary arrangements approaching review without a scheduled decision.

Operational monitoring should expose unanswered questions without replacing individualized judgment. How long did a request wait before substantive review? Was the waiting time necessary? Did the parties receive usable notice? Was an authorized service actually available? Did an implementation failure recur after a purported correction? Were language, disability, financial, or safety barriers addressed? Did a faster process preserve the quality of the decision?

A dashboard that records only how quickly cases close can reward the wrong result. A case can close because the dispute was responsibly resolved. It can also close because a person could no longer continue. The data must be interpreted with enough care to distinguish resolution from disappearance.

Counts of hearings, motions, training hours, or software transactions likewise identify where inquiry may be needed; they do not automatically establish progress or failure. Reporting must preserve the privacy protections described in the preceding chapter.

The accountability map in Chapter 10 assigns different questions to different authorities. The learning task is to examine their connections: did the referral reach the office that could act, and did that office's response remove the identified obstacle? A family should not have to carry the gap between two otherwise accurate job descriptions.

A practical improvement project might begin with one recurring failure: a required record that repeatedly does not reach the authorized recipient, or an implementation request that repeatedly loses its place when a case is reassigned. The institution would map the steps, identify the point of failure, assign ownership, test a bounded change, and evaluate both benefit and unintended consequence.

The test should include the people who must use the process and the staff who must operate it. It should include safety expertise when safety is implicated. It should record what would count as failure and what would cause the change to be stopped or revised. It should report limitations as clearly as achievements.

No grand theory is required to begin that work. What is required is the willingness to treat a recurring failure as a problem to solve rather than a feature of the profession that outsiders must learn to endure.

Institutions are entitled to maintain safe and orderly proceedings. No person's frustration authorizes threats, harassment, or the violation of another person's safety. The same principle should prevent institutions from treating every uncomfortable criticism as a threat to order.

A stern question can still be a legitimate question. A demand for evidence can still be an act of civic responsibility. A person without a professional title can still identify a real defect.

Civil language ought to improve the delivery of an answer, not become a substitute for one.

The most durable respect is earned when authority is exercised with competence, fairness, restraint, and an observable willingness to correct mistakes. Requiring acknowledgment of authority is not the same as demonstrating that authority has been used well.

A profession worthy of public trust should not be frightened by the distinction. It should insist upon it.

Study what follows the procedure

The effects of procedure can be investigated beyond whether an agreement was signed. Robert Emery and colleagues followed families from a Virginia mediation-versus-litigation study. The original sample comprised 71 families; the twelve-year follow-up included 52 mothers and 48 fathers. The studied mediation was a specific courthouse service, averaging 2.4 sessions, not every activity later called mediation. Researchers found greater nonresident-

parent involvement and contact in the mediation group. They reported no statistically significant increase in coparenting conflict, while discussing selective attrition that complicated the conflict comparison. The paper did not establish that mediation improves every measure of child well-being or is appropriate for every family.[34]

That finding should create an appetite for careful evaluation, not a new compulsory orthodoxy. A method can improve one outcome without answering every safety question. An older, small study cannot settle the appropriateness of a different service in a different population.

A later randomized study involving 196 cases reporting high levels of intimate partner violence compared litigation with safety-designed shuttle and videoconferencing mediation. Parents had to be independently willing to mediate. Immediate findings favored some mediation outcomes, including reported safety and satisfaction, with litigation taking longer to resolve cases. The study's conditions—protected setting, trained personnel, and specific safety procedures—are integral to interpreting the results.[35]

Its one-year follow-up found no significant condition differences across several continuing outcomes, including reported IPV and parent or child functioning. Litigation participants reported more social support; videoconferencing participants reported more IPV-related post-traumatic stress symptoms than shuttle-mediation participants. These findings did not clearly favor either litigation or mediation overall and did not justify converting immediate satisfaction or speed into a claim of lasting benefit.[36]

For reform, the useful lesson is that eligibility, implementation, and the time of measurement all matter. A favorable result under specialized conditions does not justify coercing participation or importing a service without its safeguards. A nonsignificant difference is not proof that the methods are equivalent in every respect. And a process should not be judged solely at the moment its administrators prefer to declare it finished.

The question for tomorrow is specific: which burden will the next family no longer have to carry, and what new burden might the reform create? The answer should be tested rather than announced. The following chapter puts that obligation into an operating proposal.

CHAPTER 12

The Prospective Order

A proposal that must carry its own weight

A better path must be more than a list of things other people should do. It needs an entry point, a responsible person, lawful authority, usable evidence, money, and a way to discover that it is failing. Otherwise, the proposal becomes another promise the family must carry.

The model in this chapter is an implementation-review process for a supported obstacle to an existing child-related arrangement. It is not a second court, a substitute for adjudication, or a new power conferred by this book. Before adoption, the responsible jurisdiction would need to establish the authority, rules, staffing, funding, and protections described below. The operational example is fictional. It demonstrates decisions and tradeoffs; it does not report tested results.

"Prospective relief" also has a specific legal meaning that should not be confused with this institutional proposal. In *City of Los Angeles v. Lyons*, the Supreme Court required an adequate showing of threatened future injury for the requested federal injunctive relief; a past injury alone did not supply it. Section 1983 separately limits injunctive relief against a judicial officer for an act in a judicial capacity, with stated exceptions. Neither the seriousness of a complaint nor the desirability of prevention dispenses with jurisdiction, standing, or the requirements of a remedy.[37, 38]

The proposal instead begins with a practical question within a lawfully authorized process: an arrangement has been ordered or

otherwise properly established; a material obstacle is preventing it from working; what can the authorized actors do now?

For Ari, the obstacle is North Clinic's eight-week wait. It does not establish that protective conditions should disappear. It does establish that naming the clinic did not make an assessment available. A process that cannot distinguish those questions will either overreach or do nothing.

Give authority a location

The following map identifies functions and the instruments needed to authorize them. It is not a statement that a Maine employee currently possesses every listed power. The local adopting authority must specify the controlling provision for each function before the pilot operates.

Function	Responsible actor and required authority
Receive, acknowledge, track, and route a request	Court administration acting under approved procedures. Staff may record status and explain neutral process; they may not alter rights or decide contested facts.
Clarify or change an operative order	The judicial officer with jurisdiction, using applicable notice, evidence, hearing, and emergency procedures. Administrative targets do not create judicial authority.
Define a new filing or review procedure	The body with rule-making power, or the legislature where a statutory change is necessary. A local practice cannot silently override a superior rule.
Pay for coordination or a service	The authorized appropriating or funding body, followed by a lawful spending arrangement. A proposed fund is not money available to a family until established.
Assess suitability and provide clinical services	An appropriately qualified provider within professional scope, with legally sufficient consent or authority and a clearly accepted assignment. Scheduling staff cannot prescribe treatment.

Function	Responsible actor and required authority
Evaluate safety, access, burden, and implementation	A reviewer with an approved protocol, lawful data access, privacy protections, and independence sufficient to report unfavorable findings. Evaluation does not decide the family case.

This separation prevents two familiar evasions. First, "the court ordered it" cannot be used to assign a nonparty provider work it has not accepted or cannot perform. Second, "staff cannot give legal advice" cannot be used to avoid explaining where a request was received, what neutral requirement remains unmet, or which authorized process addresses the issue.

The coordinator's role would be narrow: maintain the implementation record, confirm administrative facts through authorized channels, identify unresolved questions, and route them. The coordinator would not decide whether a child is safe, diagnose a parent, determine credibility, recommend a custody outcome, or convert an untested allegation into a finding. The job is to prevent a material question from disappearing between offices—not to answer questions outside the job's competence.

A jurisdiction that cannot fund or lawfully establish this role should say so before announcing the service. A promise of coordination with no coordinator is not an improvement.

The first ten business days

The proposed routine targets are acknowledgment within one business day, an initial obstacle-and-authority assessment within three, and an authorized disposition or reasoned status response within ten. These are design assumptions to test, not existing deadlines or assurances of a hearing. They do not extend any filing deadline. Urgent danger must use the applicable emergency route immediately; it must not wait for the routine queue.

The one-day target serves a modest purpose: tell the sender whether the request arrived and what happened to it. The three-day

target allows a trained person to distinguish a missing attachment from an unavailable service or a disputed substantive question. The ten-day target is a control against unexplained drift, not permission to decide a contested matter without adequate process. Where the merits cannot properly be decided within that interval, the response must identify what remains, who owns the next step, any lawful interim position, and the next review point.

These targets are only credible if supported by workload measurement and staff coverage. A pilot should record every missed target and its reason rather than exclude difficult cases from its denominator. A copied email, automated receipt, or calendar invitation does not establish that the request was accepted for filing or that a judge has considered it.

In the fictional example, Sam submits a permitted request reporting North Clinic's wait. Sam asks both for another provider and for unsupervised weekend time. The request receives one stable identifier, A-1. The operational record retains the original task-receipt date. Any legally effective filing date or relation-back question remains governed by the applicable rules. Acknowledgment explains that receipt is not a decision and that the existing protective conditions remain in force unless lawfully changed.

The request is separated into two questions. Is there a feasible, appropriate alternative to the named provider? Is there an adequate basis to change the protective contact conditions? The first might be addressed through limited clarification and service planning. The second requires its own evidence and legal analysis. Bundling them would allow a correct objection to one request to obscure the other.

Taylor receives notice through the permitted channel and disputes the proposed substitute. The concern is recorded as a concern, not labeled obstruction. With appropriate authority and limited disclosure, North Clinic confirms its availability. The alternative provider supplies qualifications, available appointments, fees, and willingness to assess the referral. No one demands the child's entire treatment history merely to verify the waiting period.

The initial record now distinguishes a confirmed fact from a disputed conclusion. Eight weeks is confirmed. The suitability of another clinician remains to be assessed. The justification for unsupervised visits remains contested. Administrative clarity has narrowed the questions without deciding them.

Ari's perspective reaches the appropriate professional through a protected, authorized method. Ari objects to being questioned in front of both parents and worries that private remarks will become ammunition. That information does not make Ari responsible for choosing the provider, serving documents, or resolving the case. It changes what the adults must examine before a session is arranged.

On business day eight, suppose a properly noticed review occurs before the judicial officer with authority. In this invented outcome, the evidence does not support Sam's request for unsupervised weekends. That request is denied. The order permits an alternative qualified provider to begin a limited assessment, subject to the specified safeguards, accepted scope, and legally sufficient authorizations. The protective conditions remain. The court sets an eight-week review of implementation and any properly presented further request.

Sam has not received everything requested. That is a necessary test of the proposal. A usable process is not a machine for granting the initiating parent's preferred result. It provides a lawful, intelligible answer and makes the authorized next step possible.

Make the answer affordable and executable

The alternative clinician accepts a limited task: assess suitability and undertake appropriate preparatory or supported work within the defined scope. The initial arrangement accounts for four possible appointments over eight weeks. It is a budget ceiling for the illustration, not a treatment dose or a requirement that the family reconcile by the fourth meeting. The clinician may conclude that a joint session is inappropriate and communicate that conclusion through the authorized route.

The order identifies what can be reported for implementation: whether the referral was accepted, whether an appointment occurred, whether an administrative obstacle prevented it, and whether clarification is required. It does not turn confidential session content into a routine status report. If a clinical or safety concern must be communicated, the provider uses the legally appropriate method and states the basis and limits of the communication.

The budget now has to survive contact with the household ledger. Chapter 3's private option imposed $700 in fees, $80 in travel, and $240 in lost earnings against a $300 margin. Simply approving the provider would have left a $720 shortfall. A direction that ignores that shortfall would preserve the appearance of a route while leaving the route unusable.

For this fictional pilot, assume a properly established fund authorizes the $700 in fees. That does not pay the $80 in travel or restore lost wages. The original schedule would still leave the household $20 short. After the provider and participants confirm feasibility, two of the four appointments are scheduled outside Sam's paid working hours. Lost earnings fall from $240 to $120. The remaining margin becomes $100: $300 less $80 and $120.

The improvement is limited but real within the example. It does not mean Sam now has $100 to spend casually; the margin remains small. It does not establish that Taylor has no burden. Taylor's travel, employment, care of other dependents, and available transportation must also be assessed rather than assumed away. Nor should avoiding Sam's wage loss require Ari to miss essential schooling. The proposed schedule is acceptable only because the example expressly assumes that the people who must perform it can do so without transferring an unreasonable burden to someone else.

The invented quotation contains four billable units of $175 each: parent intake and preparation, Ari's separate assessment, a supported joint appointment if clinically appropriate, and follow-up. The first unit includes any separately conducted parent intake contacts needed within the expressly accepted scope; it does not

assume the parents must be interviewed together. Limited administrative coordination is included. A provider-canceled appointment is replaced without an additional fee. Work beyond that scope, including additional assessment, reporting, or testimony, requires separate agreement and funding. These are accounting assumptions, not recommended clinical billing or treatment arrangements.

Funding also has an owner. The written authorization states the approved amount, covered appointments, invoicing process, and who decides a request for additional funds. The provider is not asked to accept an unidentified payer's promise. A lapse in funding must trigger review, not a default assumption that a parent refused treatment.

This is the difference between sharing a cost and solving an affordability problem. The institution has to know whether the resulting allocation can be carried. Where no feasible funded or narrower option exists, the honest response is a documented lack of capacity and a lawful review of alternatives—not a fictional finding of implementation.

Follow the arrangement past the first appointment

In the example, the clinician conducts parent intake work in week two and a separately appropriate assessment with Ari in week three. The clinician concludes that limited supported work can proceed with safeguards; no custody opinion is implied. A joint appointment is planned for week five. An authorized implementation review remains scheduled for week eight regardless of whether the parties describe the process as successful.

Now introduce a failure caused by the reform itself.

A staff shortage at the alternative provider cancels the week-five appointment. An automated status summary incorrectly classifies the event as a family cancellation. If no one checks, the pilot will have created a new route by which institutional failure becomes evidence against a parent.

The proposed control is a source-linked cancellation record reviewed by an accountable person. The provider's notice shows who canceled and why. The coordinator corrects the classification, preserves the original entry and correction history, informs the affected participants through the authorized channel, and checks whether the inaccurate summary reached a decision-maker. Any resulting judicial misunderstanding requires the proper route to correction; a database edit cannot silently amend a ruling.

The replacement appointment occurs in week six, with follow-up in week seven. The four completed billable units are the week-two intake work, week-three assessment, week-six replacement, and week-seven follow-up. No fifth fee is charged for the canceled week-five appointment. The cancellation remains in the performance record. The system does not reset the task's age, erase the missed opportunity, or claim that the four appointments happened exactly as planned.

At week eight, the review distinguishes three outcomes. The administrative obstacle was addressed: a suitable provider accepted the referral, funding was authorized, and the planned assessment and supported work occurred with one documented delay. The family relationship remains a clinical and personal matter, not an administrative success certificate. Any request to change contact conditions remains a legal question requiring an appropriate basis and process.

The implementation task can therefore close without declaring the family "fixed." Closure states exactly what was completed, what remains unresolved, and the route for a new material obstacle. It does not leave permanent professional supervision in place merely because the pilot has become accustomed to supervising.

Appendix A records this outcome in completed form. Its purpose is not to create another lengthy form parents must learn. The responsible service should prepare the record from information already supplied, allow factual corrections, and ask the family only for information genuinely needed.

When the correct response is different

A demonstration that includes only a workable alternate provider is too easy. A serious process needs branches for circumstances in which the proposed action should not occur.

Suppose Ari discloses a credible immediate safety concern during assessment. The clinician must follow applicable professional and legal duties; the authorized emergency process must be used where warranted. The routine implementation timetable does not delay that response. A supported appointment is not pursued merely to meet the pilot's completion target. A changed protective arrangement requires the legally appropriate decision, notice, and review; the coordinator does not invent that authority.

Suppose instead that the alternative clinician, after assessing the referral, determines that the requested intervention is outside the clinician's competence or unsuitable in its present form. The record should show a declined or unsuitable referral, not parental noncooperation. The next step is an authorized review of a different approach, further assessment, or another disposition supported by the evidence. More pressure on the provider does not produce competence.

Suppose no alternative provider is available and the proposed fund is exhausted. The answer cannot be a confidential notation that the family is "noncompliant." The record must identify the capacity problem, the responsible funding or administrative actor, what protection remains available, and the next review. A narrower lawful measure might help; it must be evaluated on its own merits rather than falsely represented as equivalent treatment.

Finally, suppose Sam's request is contradicted by reliable evidence: the clinic offered a feasible earlier assessment, but Sam declined without a substantiated reason. That information must be considered fairly. The implementation model should not hide it because Sam initiated the request. A correct disposition may require Sam to take a step within Sam's control, deny the requested substitution, or identify that no institutional obstacle has been

established. It should still explain the basis and preserve appropriate review.

These branches are not exceptions to the purpose of prospective relief. They are part of it. Preventing foreseeable harm includes preventing an intervention from proceeding on an inaccurate account, without adequate expertise, or against a supported safety concern.

Pay for the work that the proposal creates

A pilot requires more than software. Consider an illustrative monthly workload of sixty new requests, each needing twenty minutes of initial staff work: twenty staff-hours. Thirty follow-ups at twenty minutes add ten. Eight hours for quality checks and reporting bring the subtotal to thirty-eight staff-hours. Twelve judicial reviews at thirty minutes add six judicial hours, for forty-four hours of combined identified work.

The arithmetic is a planning example, not a staffing forecast. It excludes judicial preparation, notices, hearings that exceed thirty minutes, interpreter services, disability accommodations, supervision, training, absences, clinical work, legal assistance, and the cost of the service ultimately provided. It also assumes that the requests arrive evenly enough to manage; a weekly surge may defeat that assumption. "Forty-four hours" must not become a budget claim that conceals those omissions.

A funder needs to know the cost per meaningful task, not merely per message received. The pilot should track staff effort, judicial effort, provider expenditure, and family time separately. A reduction in paid staff time is not a saving if it is achieved by requiring parents to do more unpaid coordination. A cheaper administrative route is not better if it fails to identify a safety concern.

Affordability should be assessed before the service is ordered, then revisited if circumstances change. A standardized inquiry can help, but the inquiry itself must be usable. The proposal should

not require a family to prove extreme deprivation repeatedly in order to preserve an arrangement already found necessary.

Demand exceeding capacity requires a stated response: limit new routine enrollment where necessary, disclose the limitation, and maintain the lawful routes outside the pilot. Do not suppress urgent requests or abandon accepted tasks to make the budget appear sustainable.

Measure the future, not the announcement

The Institute for Healthcare Improvement's Plan–Do–Study–Act method offers a useful discipline for small tests of change. Borrowing that discipline does not validate a family-court intervention; it provides a way to state a prediction, test a change, examine what occurred, and adapt.[39]

One possible evaluation sequence is thirty days of baseline measurement, thirty days of shadow testing without changing decisions, and sixty days of limited operation. Those intervals are proposals, not evidence that a service is safe after sixty days. No legally required protection should be withheld to create a comparison group. Evaluation of longer-term family effects would require an appropriate design, expertise, safeguards, and follow-up beyond this administrative test.

The baseline must count all eligible attempts, including unsuccessful submissions, withdrawals, and people unable to complete the process. State the denominator at each stage. Counting only successful participants would exclude the very burdens the reform is supposed to address.

The operating measures should distinguish receipt, acceptance, assignment, decision, availability, and performance. Report the median and the slower end of the distribution, not just an average that hides a small number of extreme waits. Record the age of unresolved requests. Identify whether a closure means completed action, lawful denial, withdrawal, lack of capacity, or another reason.

Family burden requires its own measures: direct expense, paid work lost, time spent outside work, school disruption, travel, and repeated requests for the same information. Those measures should not demand intrusive disclosures unrelated to the task. A family should be able to decline an optional evaluation interview without losing access to an otherwise available service.

Safety and procedural integrity must be assessed alongside speed. Were material concerns identified and routed? Did both sides receive the notice required? Did a correction reach everyone who received the error? Were protected records disclosed unnecessarily? Did a coordinator exceed the role? Did a child feel pressured to report emotional improvement so the case could close? Such questions may reveal that an apparently efficient process needs to stop or change.

A before-and-after improvement alone would not prove that the pilot caused it. Workload, staffing, case mix, seasonal changes, or other reforms may explain part of the difference. The evaluator should report those limits and avoid presenting administrative success as demonstrated improvement in children's mental health. The proper claim is the one the design and data support.

Before expansion, the adopting authority should publish a privacy-protecting account of outcomes, missed targets, costs, complaints, corrections, and unresolved problems. Evaluation should include people who did not benefit. A pilot that is protected from unfavorable evidence is not a learning system; it is a promotional project.

Let technology assist without acquiring authority

ProSe and similar tools may help organize source-linked records, identify missing fields, preserve versions, or make a status legible. Their usefulness must be evaluated. No tool becomes competent to determine truth, safety, or a child's best interests merely because it can produce a fluent summary.

The NIST AI Risk Management Framework provides voluntary guidance for identifying and managing AI-related risks. It is not a certification that a particular product is safe for legal or clinical decisions.[40] For this proposal, the relevant boundaries are concrete: restricted data access, traceable sources, a correction history, meaningful review by an authorized person, and a usable non-digital route.

A system must not infer that a parent is lying from tone, score a child's affection, or recommend custody from message volume. It should distinguish a party's assertion from a provider's administrative confirmation and a judicial finding. A human reviewer must have enough time, information, and authority to question the output; pressing an approval button is not a safeguard by itself.

The week-five cancellation error shows why these controls belong in the design. Even a limited administrative summary can affect a person when it enters a legal record. The response is not to declare all technology unusable. It is to constrain the task, expose the basis, preserve the correction, and suspend the function when its risks cannot be adequately controlled.

The same principle governs data retention. A service should keep what lawful administration and review require, protect it, and dispose of it according to an authorized policy. More collection is not automatically more protection. The child must not pay for a more organized institution with unnecessary permanent exposure of private life.

At the end of the example, a particular weight has been reduced. The family no longer has to solve an unassigned provider-and-funding obstacle alone. Protective conditions have not vanished; disputed questions have not been declared settled. The response has become more specific, more usable, and more accountable.

That is what the proposal must earn in practice. The following chapter asks what responsibility remains when a profession has been given reason to recognize a preventable burden—and continues to leave it in place.

CHAPTER 13

Prospective Harms

After the warning

An attorney for whom I have considerable respect told me that she had attended seminars alongside judges serving the local courts, where the harms affecting children and families were discussed. As I understood her account, these were not isolated conversations. The warnings had been given more than once, over the years.[41]

I did not attend those seminars. I do not have their programs or attendance records, and this account has not been independently confirmed for this book. It cannot establish what a particular judge heard, understood, or did afterward. It does explain why the question that follows is not, for me, an abstract exercise.

After the warning, what did you do differently?

That question deserves an answer proportionate to the authority being exercised. A family should not have to accept professional attendance as proof of learning, or professional learning as proof that practice has changed. Nor should a critic mistake the absence of a visible improvement for proof that every participant knowingly ignored the same information. The obligation is to examine what was conveyed, what was understood, what changed, and what happened to the people affected.

Public materials establish a narrower point independently of the conversation. Maine's Judicial Education Committee has an educational mandate. Published core-training requirements for guardians ad litem include child development and the timing and impact of court events. Those sources identify institutional pur-

poses and topics; they do not establish attendance at the seminars described to me or knowledge by any named official.[42, 43]

The significance is not that training exists and therefore everyone is culpable. It is that a profession has a means of receiving knowledge and should have a means of showing what it does with it.

If the information is weak, examine it. If it does not apply to the decision at hand, explain the distinction. If it identifies a serious and preventable risk, respond within the authority available and seek the authority or resources that are missing. What should not follow is a ritual in which concern is acknowledged, a certificate is recorded, and the practical burden returns unchanged to the next family.

Four different meanings of knowing

Exposure, understanding, application, and verification are different accomplishments.

Exposure means the material was available or presented. A seminar program can show the subject advertised. A record may show attendance. Neither proves comprehension or agreement. A person may have heard a claim that was contested, poorly supported, or too general to guide a particular case.

Understanding requires grasping both the finding and its limits. A study of relationship quality is not a directive to impose a particular schedule. A general account of adversity is not a diagnosis of a child. Evidence that an intervention helps some families does not establish that it is safe or useful for everyone. The seriousness of the subject makes these distinctions more necessary, not less.

Application means that the relevant knowledge changes a decision or process where it should. A professional might ask a more precise question, require a more suitable assessment, change the scope of a referral, consider affordability, or schedule a review before a foreseeable obstacle becomes entrenched. Application can also mean refusing an intervention that the evidence does not support.

Verification asks whether the intended change occurred and whether it helped without creating an unacceptable new burden. A revised form might still be unusable. A training session might not change how an ambiguous request is routed. A safer-looking referral might fail because the provider is unavailable. Without verification, an institution can sincerely report reform while continuing to produce the same practical failure.

This is the responsibility of a learned profession. It is not exhausted by possessing information. The claim to expertise should include a reliable method for translating relevant knowledge into practice and correcting the translation when it fails.

Professional disagreement does not eliminate that obligation. It makes the reasons more important. A well-supported disagreement identifies the competing evidence and explains the chosen course. It does not demand that the public mistake professional status for the missing explanation.

A warning must be specific enough to use

Prospective responsibility cannot rest on the proposition that something bad might happen someday. Almost any consequential choice carries risk. The useful question is what supported risk exists, what is at stake, and what can lawfully and feasibly be done about it.

A confirmed waiting period is one kind of information. A credible safety report is another. A provider's statement that an assignment is outside professional scope is a third. They require different responses. Treating them all as generalized parental dissatisfaction makes the process less capable of acting on any of them.

A sound warning record should identify the condition, the source, the expected consequence, the uncertainty, the possible response, and the person with authority to decide. It should also identify the relevant time: when the opportunity ends, when review is needed, or why an emergency route is required. That record should be as short as the problem permits, not a demand that a

parent reconstruct an entire life every time an appointment cannot occur.

For the fictional family, the warning was not that North Clinic's wait would inevitably cause a diagnosable disorder. The warning was that the authorized service could not begin for eight weeks and that no one had decided whether an alternative or an interim response was appropriate. That was enough to justify a focused examination of availability and authority. It was not enough to justify every change Sam requested.

The same discipline protects a child who needs a restriction to continue. A request to remove it should not succeed merely because delay has become painful. Its continued operation should nevertheless remain answerable to the present facts, its purpose, and any applicable review requirements. The burden of a safeguard does not prove it wrong. The word "safeguard" does not make its design or duration beyond examination.

The American Academy of Pediatrics' policy on relational health emphasizes safe, stable, nurturing relationships and attention to the conditions supporting them. That is professional guidance, not evidence deciding a custody dispute or assigning responsibility to a particular official.[44] Its relevance here is to the seriousness with which institutional design should consider relational conditions. A policy that speaks of healthy relationships should not be invoked ceremonially while the means of supporting an appropriate relationship remain unexamined.

The future does not have to be predicted perfectly for a practical failure to be recognized. The question is whether the institution acted responsibly on the information it could reasonably use at the time.

What must change after notice

Once a material obstacle is supported, responsibility cannot remain suspended between the people who know about it and the people who can address it.

The first obligation is identification. Who has authority over the particular issue? A judge may need to resolve an ambiguity. An administrator may need to repair routing. A clinician may need to reconsider a referral. A funding body may need to address capacity. Calling the problem "systemic" should not make its next actionable part anonymous.

The second obligation is a reasoned response. Sometimes the proposed change will be inappropriate. Sometimes the available evidence will support the existing arrangement. Sometimes the institution will lack a power the critic assumes it has. A responsible response identifies the basis, the limits, and the proper route for any remaining question. Silence is not a substitute for that work simply because silence is easier to defend than a decision.

The third obligation is follow-through. Where a correction is authorized, someone must verify that it reached the family. Where it did not, the failure should remain visible. A referral that was never accepted, a record that was never delivered, or a review that was never assigned cannot be counted as completed protection.

The fourth obligation is institutional memory. The next family should not have to establish the same avoidable defect from the beginning. Correct a recurrent instruction. Repair the broken route. Change the training example. Reassess the capacity assumption. Share the privacy-protecting lesson with the people whose work can prevent a repetition.

These obligations do not make every adverse outcome a professional wrong. They make the response to a supported problem examinable. An institution may show that a difficult decision was justified, that reasonable alternatives were considered, and that the outcome could not responsibly have been avoided. That account deserves to be heard. It is different from insisting that the existence of an official process ends the inquiry.

A profession should not receive automatic deference for a failure it could have corrected merely because the failure occurred through familiar procedures. Longevity is evidence that a practice

has survived. It is not evidence that the practice deserves to survive unchanged.

The future is not a lesser interest

The present record is easier to describe than the future affected by it. Documents have dates. Decisions have headings. A child has a life whose significance cannot be reduced to the parts already filed.

That difference creates a temptation: treat the recorded past as the only serious material and the foreseeable future as speculation. The answer is not to abandon evidence. It is to examine future consequences with the same discipline used to examine other contested questions—identify the basis, compare plausible alternatives, acknowledge uncertainty, and choose a proportionate response.

A process that requires an avoidable injury to become complete before it becomes administratively credible has confused proof with permission to neglect. It can be necessary to investigate a disputed allegation. It does not follow that every supported logistical obstacle must remain untouched until a larger dispute is finally resolved.

The public should also be able to ask whether professional self-protection has displaced public purpose. An institution needs defensible records and fair treatment of its staff. Those needs become a problem when the record is organized primarily to explain why no one could act, rather than to identify what could responsibly have been done.

Where a practice continues to impose a serious, foreseeable, avoidable burden, preserving it because it is customary is not a neutral choice. Where a professional has authority to seek or make a correction, invoking the dignity of the office does not answer the question of why the correction was not pursued. Where the child's future is subordinated to professional convenience, the language of best interests does not cure the contradiction.

That is not justice.

It is not justice to make a family finance the repeated discovery of the same institutional defect. It is not justice to demand stability while declining to examine whether the process is consuming the resources that sustain it. It is not justice to treat a later acknowledgment as the full measure of responsibility when a practical safeguard could have mattered sooner.

Nor is justice served by replacing one unsupported certainty with another. The better path must remain open to unwelcome evidence, adverse decisions, and correction of its own mistakes. Its moral seriousness depends on that discipline.

The motion for prospective relief is therefore not a request for ceremonial agreement. It asks for knowledge to become practice, practice to become accountable action, and accountable action to reduce the weight borne by the family.

The problems of tomorrow should be less severe than those of today. We cannot promise that life will obey that standard. We can require our institutions to work toward it rather than preserve preventable failure as a professional inheritance.

The next child should not have to pay for a lesson the profession has already had the opportunity to learn.

Epilogue

Before the Weight Becomes Permanent

Inside the shield is a family.

Not a docket number. Not an opportunity for professional display. People whose lives will continue after the last document in a proceeding is filed.

The family does not exist to give the institution a purpose. The institution exists to serve purposes that matter in the family's life: protection, fair consideration, lawful resolution, and a usable route through uncertainty.

The people inside the shield may disagree. A relationship may need protection from conduct within it. A parent may be wrong about a fact or a proposed remedy. A child may need something neither adult initially requested. Taking those possibilities seriously is part of serving them, not a reason to forget them.

At the beginning of this book, the first weight was absence. Around it accumulated the work of seeking an answer: money, time, attention, and the fear that an ordinary opportunity would disappear while the process remained open. The better path does not promise to remove every burden. It asks that avoidable burdens have an identified owner and an honest route to correction.

Some time cannot be returned. The meal that did not happen cannot later become the same meal. A school year cannot be rerun so that support arrives when it was first needed. A later remedy may matter profoundly without making the earlier loss disappear.

But irretrievable time is not the same as an irretrievable future.

A child can still be heard. A parent can still learn. A safe relationship can still receive appropriate support. An institution can still correct an error, remove an unnecessary obstacle, or make the next request easier to understand. None of those possibilities should be diminished by the refusal to pretend that the past has been restored.

The next useful step may be small. A question reaches the person who can answer it. A provider confirms what is actually available. A restriction receives the review it requires. An inaccurate record is corrected before it governs another decision. A family is relieved of a task that should not have belonged to it.

That is where the symbol must become service.

The scales must do more than weigh the crushing burden. Justice must help lift it.

Appendix A
A Completed Implementation Review Record

Fictional example A-1: provider availability

This completed record follows Chapter 12. It is an original illustration, not an official form, a case record, a clinical protocol, or a proposed order ready for filing. All people, events, amounts, and time intervals are invented. The record is designed to be maintained by the authorized service, using information already supplied and allowing participants to correct factual errors.

Task and scope. A-1 concerns the availability and affordability of the professionally supported work authorized for Ari and Sam. It does not determine ultimate parenting arrangements or the quality of a family relationship.

Existing position. An order identifies North Clinic and retains protective conditions. Unsupervised visits are not authorized. Any change requires the appropriate judicial process. The exact operative document would be identified and linked in an actual authorized record.

Reported obstacle and source. Sam reports that the next North Clinic assessment is eight weeks away. Through an authorized, limited inquiry, the clinic confirms the waiting period. Taylor questions the suitability of a different provider. Sam also requests unsupervised weekend time. The confirmation, objection, and additional request are recorded separately.

Receipt and age. Day zero: request received through the permitted process and assigned A-1. Day one: acknowledgment explains

receipt, limits, and next routing step. Corrections to attachments retain the original task age; any legally effective filing date remains governed by the applicable rules. Neither receipt nor acknowledgment is described as a merits ruling.

Notice and protected information. Taylor receives the request through the authorized channel and has the applicable opportunity to respond. Ari's views are obtained through the appropriate protected professional process. Routine status information is limited to what implementation requires; confidential treatment content is not copied into the general task record.

Authority and decision. Day eight: a properly noticed judicial review occurs in the fictional example. The request for unsupervised weekends is denied on the available record. A limited assessment with a suitable alternative provider is authorized subject to protective conditions, accepted scope, and legally sufficient authorizations. A review of implementation is set for week eight. No coordinator decides custody or clinical suitability.

Accepted service. The alternative clinician accepts the defined referral after reviewing competence, scope, consent or authority, and feasibility. Four $175 billable units cover parent intake and preparation, Ari's separate assessment, an appropriate supported joint appointment, and follow-up. The first unit includes the separately conducted parent contacts within the agreed scope; provider cancellation does not add a fifth fee. The number is a funding assumption, not a prescribed treatment dose or an emotional-recovery deadline. Clinical concerns go through the appropriate reporting and review process.

Funding and family burden. A lawfully established hypothetical fund authorizes $700 for fees. Sam's travel costs are $80. Moving two of the four appointments outside paid work reduces assumed lost earnings from $240 to $120. Against the illustrative $300 household margin, $100 remains. Eight hours of unpaid coordination are recorded separately. Taylor's feasibility is checked; the schedule does not presume unlimited time or transfer an unreasonable burden to Ari.

Performance. Parent intake occurs in week two. A separate assessment with Ari occurs in week three. After assessment, limited supported work is considered appropriate within the safeguards. The week-five appointment is canceled by the provider because of staffing. Replacement occurs in week six, with follow-up in week seven. Four billable units are completed in weeks two, three, six, and seven. The week-five cancellation is replaced, not charged as an additional appointment.

Error and correction. An automated summary initially labels the week-five event a family cancellation. Review of the provider's notice identifies the error. The coordinator corrects the classification, retains an audit history, informs authorized recipients, and checks whether the error reached a decision-maker. The cancellation and resulting delay remain in performance reporting.

Week-eight disposition. The availability-and-funding task is closed as implemented with one documented provider delay and one corrected classification error. The record does not declare the relationship repaired, change protective conditions, or adjudicate a new request. Any further clinical recommendation or legal application follows its proper process.

Residual matters and reopening. Relationship progress and future contact arrangements remain distinct from the completed administrative task. A new material obstacle may trigger another properly scoped request, linked to A-1 without rewriting its history. Immediate danger uses the applicable emergency route rather than the routine review target.

What was verified. Referral acceptance, funding authorization, appointment occurrence, cause of cancellation, correction distribution, and the recorded judicial disposition. What was not established: restored trust, the ultimate best parenting arrangement, or the pilot's effectiveness for other families.

Appendix B
A Reusable Review Structure

The minimum useful record

The following structure is a proposal for an authorized service to adapt, not a new obligation for a parent to master. It should be shorter where the issue is simple. It must not override applicable forms, filing rules, confidentiality protections, or legal requirements.

The question. Identify the practical obstacle and the particular action sought. Separate implementation from a request to change a substantive right or protective condition.

The controlling position. Identify the operative order or other lawful basis, its relevant terms, and who has authority to interpret or change it. Record unresolved ambiguity rather than silently choosing an interpretation.

The source and its limits. Distinguish assertion, administrative confirmation, professional opinion, and finding. Preserve a source reference and correction history. Collect only information needed for the authorized task.

Notice and participation. Record the permitted notice channel, required opportunity to respond, relevant accessibility needs, and the protected method of considering a child's views. Do not make the child the messenger or case manager.

Feasibility. Confirm the responsible provider or actor has accepted the task, possesses the necessary competence and authority, and can perform it. Identify costs, funding, employment and school effects, transport, and material dependencies.

The decision and next act. State what was granted, denied, deferred, or referred; who decided; the basis; who acts next; and what date or event triggers review. A receipt should never be represented as that decision.

Verification and correction. Specify what evidence will establish that the act occurred, who checks, how a failure is classified, and how an error reaches every affected recipient. Preserve delays instead of resetting the clock.

Closure and what remains. Identify the exact task completed or disposition reached. Record unresolved clinical or legal questions without claiming the family is fixed. State the proper route for a new material issue and the applicable emergency route.

A record is useful when it reduces the work required to obtain a lawful answer. If maintaining it becomes another avoidable burden placed on the family, the design needs correction.

Source Notes

Sources distinguish empirical research, law, professional guidance, personal recollection, and the author's proposals. The bibliography is selective rather than systematic. Related publications from the same research program are not counted as independent replications. All fictional budgets, service targets, staffing assumptions, and proposed workflows are original illustrations, not measured results.

Legal and institutional sources are identified by version or consultation date where available. Source descriptions identify the scope used and distinguish full-text examination from abstract-level support where material. A source's inclusion does not establish that it supports a claim beyond the scope stated here.

1. Family conflict and emotional security

Cummings, E. Mark, Melissa R. W. George, Kathleen P. McCoy, and Patrick T. Davies. "Interparental Conflict in Kindergarten and Adolescent Adjustment: Prospective Investigation of Emotional Security as an Explanatory Mechanism." Child Development 83, no. 5 (2012): 1703–1715. DOI: 10.1111/j.1467-8624.2012.01807.x. PMID: 22694264.

Used for the longitudinal association among conflict, emotional insecurity, and later adjustment. Not a study estimating the effect of judicial delay. Source: https://pubmed.ncbi.nlm.nih.gov/22694264/

2. Maine□s best-interest framework

Maine Revised Statutes, Title 19-A, section 1653, especially subsections 1, 2(D), 3, and 4. Official Maine Legislature text checked November 7, 2026.

Used for the statute's safety-first, multi-factor approach and the existence of prospective parental-rights orders. No conclusion about a particular order is inferred. Source: https://www.legislature.maine.gov/legis/statutes/19-A/title19-Asec1653.html

3. Establishing justice as a constitutional purpose

United States Constitution, Preamble. National Archives transcription, consulted November 6, 2026.

Used for the Preamble's stated purpose, not as a claim that the Preamble independently creates a cause of action. The interpretation of "establish" is the author's normative argument. Source: https://www.archives.gov/founding-docs/constitution-transcript

4. Maine's express promise concerning justice

Constitution of the State of Maine, Article I, section 19, "Right of redress for injuries." Official Maine Legislature text, consulted November 6, 2026.

Used for the constitutional text concerning remedy and the administration of justice. The chapter does not infer that every fee or delay violates section 19; a claim about a particular practice requires the governing case law and facts. Source: https://legislature.maine.gov/ros/LawsOfMaine/App/views/constitution.html

5. Distributive and corrective justice

Aristotle. Nicomachean Ethics, Book V, especially sections 2–4. Translated by W. D. Ross. Internet Classics Archive, Massachusetts Institute of Technology.

Used for the distinction between distributive and corrective justice. The family-law examples and the book's prospective framework are the author's applications, not claims attributed to Aristotle. Source: https://classics.mit.edu/Aristotle/nicomachaen.5.v.html

6. Procedure and the risk of error

Mathews v. Eldridge, 424 U.S. 319, 335, 349 (1976). United States Supreme Court opinion, reproduced by Cornell Legal Information Institute.

Used for the three-factor procedural-due-process framework and the actual disposition of the disability-benefits case. No uniform hearing requirement for family proceedings is inferred. The case is not a substitute for reviewing the controlling law of a particular proceeding. Source: https://www.law.cornell.edu/supremecourt/text/424/319

7. Unmet civil legal needs

Legal Services Corporation. The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans. 2022. Executive summary and discussion of the 2021 Justice Gap Measurement Survey.

The 92 percent figure concerns substantial civil legal problems reported by low-income Americans. It is not a family-court-specific representation rate. Source: https://justicegap.lsc.gov/resource/executive-summary/

8. Household resources and child symptoms

Costello, E. Jane, Scott N. Compton, Gordon Keeler, and Adrian Angold. "Relationships Between Poverty and Psychopathology: A Natural Experiment." JAMA 290, no. 15 (2003): 2023–2029. DOI: 10.1001/jama.290.15.2023. PMID: 14559956.

Quasi-experimental longitudinal study of 1,420 rural children. The reported reduction concerned conduct and oppositional symptoms, not anxiety or depression. The published abstract and institutional bibliographic record support this limited description; no effect of litigation expense is inferred. Sources: https://pubmed.ncbi.nlm.nih.gov/14559956/ and https://scholars.duke.edu/publication/757769

9. Preventive intervention after divorce

Wolchik, Sharlene A., et al. "Six-Year Follow-up of Preventive Interventions for Children of Divorce: A Randomized Controlled Trial." JAMA 288, no. 15 (2002): 1874–1881. DOI: 10.1001/jama.288.15.1874. PMID: 12377086.

Used for evidence that specified preventive programs can improve measured outcomes. Results cannot be transferred automatically to different services or populations. Source: https://pubmed.ncbi.nlm.nih.gov/12377086/

10. Parenting support for fathers

Sandler, Irwin, et al. "Effects of a Program to Promote High Quality Parenting by Divorced and Separated Fathers." Prevention Science 19, no. 4 (2018): 538–548. DOI: 10.1007/s11121-017-0841-x. PMID: 28913663.

Used for the randomized evaluation of NBP-Dads. Program effects were not uniform across all outcomes and participants. Source: https://pmc.ncbi.nlm.nih.gov/articles/PMC6054312/

11. Nonresident-father relationship quality in adolescence

King, Valarie, and Juliana M. Sobolewski. "Nonresident Fathers' Contributions to Adolescent Well-Being." Journal of Marriage and Family 68, no. 3 (2006): 537–557. DOI: 10.1111/j.1741-3737.2006.00274.x. PMID: 18270550.

Observational analysis of 453 adolescents; associations do not establish the effect of a custody decision. Full-text source: https://pmc.ncbi.nlm.nih.gov/articles/PMC2239255/

12. Involvement and conflict considered together

Modecki, Kathryn L., Melissa J. Hagan, Irwin Sandler, and Sharlene Wolchik. "Latent Profiles of Nonresidential Father Engagement Six Years After Divorce Predict Long-Term Offspring Outcomes." Journal of Clinical Child & Adolescent Psychology 44, no. 1 (2015): 123–136. Online publication 2014. DOI: 10.1080/15374416.2013.865193. PMID: 24484456.

Observational profile analysis, N = 156, with nine-year follow-up from adolescent measures. Small, predominantly White sample within the New Beginnings research program. Profile groups were not randomly assigned. Source: https://pmc.ncbi.nlm.nih.gov/articles/PMC4117834/

13. Conflict, fear of abandonment, and subsequent symptoms

O'Hara, Karey L., C. Aubrey Rhodes, Sharlene A. Wolchik, Irwin N. Sandler, and Jenn-Yun Tein. "Longitudinal Effects of Post-divorce Interparental Conflict on Children's Mental Health Problems through Fear of Abandonment: Does Parenting Quality Play a Buffering Role?" Child Development 92, no. 4 (2021): 1476–1493. DOI: 10.1111/cdev.13539. PMID: 33432998.

N = 559, ages 9–18. Longitudinal statistical mediation within a prevention-study sample, not random assignment to conflict. The hypothesized buffering effect was not observed as expected. Related New Beginnings data are not independent replications. Source: https://pmc.ncbi.nlm.nih.gov/articles/PMC8273193/

14. Adolescent relationships and young-adult health

Ford, Carol A., Andrew C. Pool, Nicole F. Kahn, James Jaccard, and Carolyn T. Halpern. "Associations Between Mother-Adolescent and Father-Adolescent Relationships and Young Adult Health." JAMA Network Open

6, no. 3 (2023): e233944. DOI: 10.1001/jamanetworkopen.2023.3944. PMID: 36943264.

Add Health observational analysis: 10,744 mother-relationship and 8,214 father-relationship observations. See Methods and Strengths and Limitations. No detailed nonresident-parent analysis; not an estimate of judicial-separation effects. Source: https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2802677

15. Assignment versus participation

Sandler, Irwin, et al. "Randomized Effectiveness Trial of the New Beginnings Program for Divorced Families with Children and Adolescents." Journal of Clinical Child & Adolescent Psychology 49, no. 1 (2020): 60–78. First published online in 2019. DOI: 10.1080/15374416.2018.1540008. PMID: 30644774.

Used for the reported attendance figures in a court-recruited, community-delivered intervention. Those figures do not establish the reason for any particular participant's nonattendance. Source: https://pmc.ncbi.nlm.nih.gov/articles/PMC6642686/

16. Continuing professional competence

American Bar Association. Model Rules of Professional Conduct, Rule 1.1, Comment 8, "Maintaining Competence."

A professional model standard; applicability as enforceable law depends on the jurisdiction's adopted rules. Source: https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_1_competence/comment_on_rule_1_1/

17. Language and comprehension

Martínez, Eric, Francis Mollica, and Edward Gibson. "Poor Writing, Not Specialized Concepts, Drives Processing Difficulty in Legal Language." Cognition 224 (2022): 105070. DOI: 10.1016/j.cognition.2022.105070. PMID: 35257980.

Experimental findings concerning contract language, not a validation of every proposed procedural simplification. Source: https://pubmed.ncbi.nlm.nih.gov/35257980/

18. Lawyers and simplified contracts

Martínez, Eric, Francis Mollica, and Edward Gibson. "Even Lawyers Do Not Like Legalese." Proceedings of the National Academy of Sciences 120, no. 23 (2023): e2302672120. DOI: 10.1073/pnas.2302672120. PMID: 37253008.

Lawyers' enforceability ratings are distinguished from judicial determinations. Source: https://pmc.ncbi.nlm.nih.gov/articles/PMC10266064/

19. Explanation within representation

American Bar Association. Model Rules of Professional Conduct, Rule 1.4(b), "Communications."

Used for the model obligation to explain matters to clients. It does not create an attorney-client relationship with an opposing party. Source: https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_4_communications/

20. Judicial independence, performance, and retaliation

Maine Code of Judicial Conduct, Rules 2.2, 2.4, 2.5, 2.6(C), and 2.16(B), amendments effective September 23, 2024; official rules index checked November 7, 2026. Specific ethical duties and limits, not independent civil-damages authority. Source: https://www.courts.maine.gov/rules/text/mc_jud_conduct_only_2024-09-23.pdf

21. Individualized examination of parent–child contact problems

Association of Family and Conciliation Courts and National Council of Juvenile and Family Court Judges. "Joint Statement on Parent-Child Contact Problems." 2022. Especially considerations 1, 3–6.

Professional policy guidance supporting child participation, safety screening, individualized analysis, and proportionate services. It is not an empirical estimate of the causes of contact problems or a diagnosis of a particular family. Source: https://www.afccnet.org/Resource-Center/Center-for-Excellence-in-Family-Court-Practice/afcc-and-ncjfcj-joint-statement-on-parent-child-contact-problems

22. Children's experiences of family-law services

Carson, Rachel, Edward Dunstan, Jessie Dunstan, and Dinika Roopani. Children and Young People in Separated Families: Family Law System

Experiences and Needs. Melbourne: Australian Institute of Family Studies, 2018. See executive summary and sections 1.2, 4, and 6.

A qualitative study involving 61 young people aged 10–17, supplemented by interviews with 47 parents. Recruitment was self-selected. Used for participants' reported experiences and needs; not a representative estimate for Maine, a causal evaluation, or a statement of current Australian law. Source: https://aifs.gov.au/all-research/research-reports/children-and-young-people-separated-families-family-law-system

23. Evaluation, treatment, and professional role boundaries

American Psychological Association. Guidelines for Child Custody Evaluations in Family Law Proceedings. Adopted as association policy February 2022. See introduction, printed pages 1–4, and Guidelines 12–13, printed pages 13–14.

Used for the distinction between treatment and forensic evaluation, aspirational status, role-conflict concerns, and developmentally appropriate assessment. The document is professional guidance, not proof that any particular intervention is effective or that every guideline is independently enforceable. Source: https://www.apa.org/about/policy/child-custody-evaluations.pdf

24. Court-involved therapy

Association of Family and Conciliation Courts. Guidelines for Court-Involved Therapy. Approved October 2010. See Guidelines 1–8, including role boundaries, competence, fees, informed consent, privacy, and methods. Also published as AFCC Task Force on Court-Involved Therapy, "Guidelines for Court-Involved Therapy," Family Court Review 49 (2011): 564–581. DOI: 10.1111/j.1744-1617.2011.01393.x.

Used as professional practice guidance rather than outcome research. The proposed referral and review framework is the author's synthesis and requires assessment against applicable law, clinical judgment, and resources before implementation. Source: https://www.afccnet.org/Portals/0/PDF/Guidelines%20for%20Court%20Involved%20Therapy%20AFCC.pdf

25. Clinical privacy and parental access

United States Department of Health and Human Services, Office for Civil Rights. "Does a parent have a right to receive a copy of psychotherapy notes about a child's mental health treatment?" and "Does the HIPAA

Privacy Rule allow parents the right to see their children's medical records?" Consulted November 6, 2026. See also 45 C.F.R. sections 164.501, 164.502(g), and 164.524(a)(1)(i), as discussed in the agency guidance.

Used for the distinction between separately maintained psychotherapy notes and medical-record information, and for the role of personal-representative status, state law, and safety-related exceptions. The chapter does not resolve access to any particular child's records. Sources: https://www.hhs.gov/hipaa/for-professionals/faq/does-parent-have-right-receive-copy-psychotherapy-notes-about-childs-mental-health-treatment.html and https://www.hhs.gov/hipaa/for-professionals/faq/can-i-access-medical-record-if-i-have-power-of-attorney/index.html

26. Family justice reform principles

Family Justice Initiative. Principles for Family Justice Reform. National Center for State Courts, Institute for the Advancement of the American Legal System, and National Council of Juvenile and Family Court Judges, 2019. See especially Principles 1–5 and 11–13.

Recommendations and design principles are not treated as uniformly implemented law or as randomized findings. Publication page: https://iaals.du.edu/publications/principles-family-justice-reform

27. Record fees and permanent termination of parental rights

M. L. B. v. S. L. J., 519 U.S. 102, 107, 119–128 (1996). United States Supreme Court opinion, reproduced by Cornell Legal Information Institute.

Used for the narrow holding that an indigent parent could not be denied the appellate review at issue in a permanent parental-rights-termination case because of inability to prepay record-preparation fees. It is not presented as a categorical right to a free transcript in custody litigation or civil appeals generally. Source: https://www.law.cornell.edu/supremecourt/text/519/102

28. A randomized measure of practical court access

Greiner, D. James, Ellen Lee Degnan, Thomas Ferriss, and Roseanna Sommers. "Using Random Assignment to Measure Court Accessibility for Low-Income Divorce Seekers." Proceedings of the National Academy of Sciences 118, no. 14 (2021): e2009086118. DOI: 10.1073/pnas.2009086118. PMID: 33785589.

Field experiment, 311 Philadelphia County residents; 74 assigned to lawyer-matching effort and 237 to the comparison route. Main-text percentages are raw assignment-group outcomes, not adjusted effect estimates or the separately modeled effect of receiving counsel. Full text: https://pmc.ncbi.nlm.nih.gov/articles/PMC8040644/

29. Judicial discipline and administrative correction

Maine Committee on Judicial Conduct, "Functions & Procedures"; and Order Establishing Committee on Judicial Conduct and associated Rules, amendments effective June 25, 2025, paragraph 6A. Consulted November 7, 2026.

Used to distinguish discipline from review of case outcomes and to identify the limited informal-correction authority. The proposed complaint design is the author's argument, not a description of all existing procedures. Sources: https://www.cjc.maine.gov/functions_procedures.html and https://www.courts.maine.gov/rules/text/r_comm_jud_conduct_2025-06-25.pdf

30. Communication, resolution, and learning after harm

United States Department of Health and Human Services, Agency for Healthcare Research and Quality. Communication and Optimal Resolution (CANDOR) Toolkit. Originally created April 2016; overview last reviewed August 2022; consulted November 7, 2026.

Used as a healthcare practice-design comparison concerning communication, investigation, resolution, and learning. It is not evidence of effectiveness in family courts, and no healthcare disclosure practice is proposed as overriding legal-process restrictions. Source: https://www.ahrq.gov/patient-safety/settings/hospital/candor/index.html

31. Counsel□s duty concerning delay

Maine Rules of Professional Conduct, Rule 3.2, "Expediting Litigation," and Comment 1. Official Board of Overseers of the Bar publication, consulted November 7, 2026.

Used for the rule's duty and the commentary's distinction between legitimate client interests and improper delay. No finding about any individual lawyer is made. Source: https://mebaroverseers.org/regulation/bar_rules.html?id=88221

32. Burdens imposed on third persons

Maine Rules of Professional Conduct, Rule 4.4(a), "Respect for Rights of Third Persons; Inadvertent Disclosures." Official Board of Overseers of the Bar publication, consulted November 7, 2026.

Used for the rule's stated substantial-purpose and legal-rights limits. A burdensome act is not automatically a violation. Source: https://mebaroverseers.org/regulation/bar_rules.html?id=88240

33. The author□s proposed initiative

Justin A. Tahai's statement of reform direction in this edition, with JTforME identified as the public project through which he advocates those proposals. Project overview: https://www.jtforme.com/

This is an author-position reference, not independent evidence of effectiveness or enacted law. The book neither reproduces nor incorporates a particular proposed Act, website revision, or later amendment. The operating model in Chapter 12 is set out in the book itself.

34. Long-term follow-up of a dispute-resolution method

Emery, Robert E., Lisa Laumann-Billings, Mary C. Waldron, David A. Sbarra, and Peter Dillon. "Child Custody Mediation and Litigation: Custody, Contact, and Coparenting 12 Years After Initial Dispute Resolution." Journal of Consulting and Clinical Psychology 69, no. 2 (2001): 323–332. DOI: 10.1037/0022-006X.69.2.323. PMID: 11393609.

Full article consulted, including Methods at 324–325 and Discussion at 330–331. Original sample: 71 families; follow-up: 52 mothers and 48 fathers, with denominators varying by measure. The paper discusses selective attrition, limited power, and the particular intervention. It does not establish universal mediation safety or child-treatment efficacy. Stable record: https://pubmed.ncbi.nlm.nih.gov/11393609/ . Full-text author-hosted copy located through Robert Emery's ResearchGate publication record, November 7, 2026.

35. Safety-designed dispute resolution: immediate outcomes

Holtzworth-Munroe, Amy, et al. "Intimate Partner Violence (IPV) and Family Dispute Resolution: A Randomized Controlled Trial Comparing Shuttle Mediation, Videoconferencing Mediation, and Litigation." Psychology, Public Policy, and Law 27, no. 1 (2021): 45–64. First published online

August 24, 2020. DOI: 10.1037/law0000278. National Institute of Justice publication record, NCJ 304399.

196 cases: litigation 67, shuttle mediation 64, videoconferencing 65. The study concerned independently willing parents and specific safety arrangements; it does not justify compulsory mediation or removal of protective safeguards. The manuscript uses the authors' reported immediate findings in the NIJ record. Source: https://nij.ojp.gov/library/publications/intimate-partner-violence-ipv-and-family-dispute-resolution-randomized

36. Safety-designed dispute resolution: one-year follow-up

Holtzworth-Munroe, Amy, et al. "Intimate Partner Violence and Family Dispute Resolution: 1-Year Follow-Up Findings From a Randomized Controlled Trial Comparing Shuttle Mediation, Videoconferencing Mediation, and Litigation." Psychology, Public Policy, and Law 27, no. 4 (2021): 581–596. DOI: 10.1037/law0000309. National Institute of Justice publication record, NCJ 307224.

Follow-up of the same trial as the preceding immediate-outcomes paper, not an independent trial. The manuscript confines its description to the reported outcomes and does not treat nonsignificant differences as proof of equivalence. Source: https://nij.ojp.gov/library/publications/intimate-partner-violence-and-family-dispute-resolution-1-year-follow-findings

37. Past injury and prospective federal relief

City of Los Angeles v. Lyons, 461 U.S. 95, 101–113 (1983). Majority opinion of the United States Supreme Court, reproduced by Justia; consulted November 7, 2026.

Used for the distinction between an alleged past injury and the showing necessary for the requested prospective relief. The chapter is not a complete account of federal standing or injunction doctrine. Source: https://supreme.justia.com/cases/federal/us/461/95/

38. Statutory restriction on judicial-capacity injunctions

42 U.S.C. section 1983, official Office of the Law Revision Counsel text, laws in effect through Public Law 119-124, October 15, 2026; consulted November 7, 2026.

Used only for the statute's restriction on injunctive relief against judicial officers for judicial-capacity acts or omissions and its stated exceptions. It does not establish that any particular claimant satisfies an exception or other jurisdictional requirements. Source: https://uscode.house.gov/us/usc/119-124/t42/s1983/

39. Small-scale testing before wider implementation

Institute for Healthcare Improvement. "How to Improve: Model for Improvement: Testing Changes." Consulted November 7, 2026.

Used for the general method of bounded testing, observation, and revision. The proposed court pilot, service targets, evaluation measures, and staffing assumptions are original illustrative proposals, not validated parameters supplied by IHI or findings from a family-court trial. Source: https://www.ihi.org/library/model-for-improvement/testing-changes

40. AI risk management is not delegated legal authority

National Institute of Standards and Technology. AI Risk Management Framework overview; the 2023 AI RMF 1.0 and its voluntary purpose are identified on the official page. Consulted November 7, 2026.

Used for the need to manage risk across AI design, use, and evaluation. The page notes revision work; the book does not describe 1.0 as an immutable current standard, a legal mandate, or certification of any product. Source: https://www.nist.gov/itl/ai-risk-management-framework

41. The attorney□s account

Justin A. Tahai's recollection supplied for this manuscript, November 7, 2026. A paraphrase of a conversation with an unnamed attorney, not a recorded quotation or an independently confirmed interview.

No seminar dates, programs, attendance records, or independent confirmation were supplied. The account explains the author's question; it does not establish any judge's attendance, knowledge, intent, or misconduct. Public educational materials cited separately establish only their own stated purposes and topics.

42. The stated purpose of judicial education

Maine Judicial Branch. "Judicial Education Committee," statement of purpose and governance, revised February 25, 2020. Official publication consulted November 7, 2026.

Used for the published purpose of continuing judicial education, not for the current membership roster, attendance at any particular seminar, or demonstrated effects on judicial practice. Sources: https://www.courts.maine.gov/about/committees/jud-edu.html

43. Child-impact topics in guardian-ad-litem training

Maine Judicial Branch. "Information for Guardians ad Litem," section "Core training for rostered GALs," subsection on family and probate matters. Official publication consulted November 7, 2026.

Used for the topics identified in the published guardian-ad-litem training framework. These are not judicial attendance records, and the chapter does not treat them as verification of the attorney's account. Sources: https://www.courts.maine.gov/info/gals.html

44. Prevention and relational health

Garner, Andrew, and Michael Yogman, with the American Academy of Pediatrics Committee on Psychosocial Aspects of Child and Family Health, Section on Developmental and Behavioral Pediatrics, and Council on Early Childhood. "Preventing Childhood Toxic Stress: Partnering With Families and Communities to Promote Relational Health." Pediatrics 148, no. 2 (2021): e2021052582. DOI: 10.1542/peds.2021-052582. PMID: 34312296.

The publisher identifies a May 2026 reaffirmation with reference and data updates. Publisher-indexed policy text and bibliographic information were consulted November 7, 2026. Used as professional policy supporting prevention and relational health, not as a custody rule, a finding about an individual child, or a causal evaluation of a court practice. Sources: https://publications.aap.org/pediatrics/article/148/2/e2021052582/179805/Preventing-Childhood-Toxic-Stress-Partnering-With and https://pubmed.ncbi.nlm.nih.gov/34312296/

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About the Author

Justin A. Tahai is a father and former information technology professional. His work on ProSe and the reform proposals at JTforME examines whether specialized knowledge and public processes can become more understandable, accountable, and useful to the people they serve. SCALES brings that service perspective to the burdens imposed on children and families and to the work of preventing avoidable harm.

SOME BURDENS SHOULD NEVER HAVE BEEN PLACED ON A FAMILY.

A parent may be expected to demonstrate stability while spending the resources that make stability possible.

Preserve your income, but prepare another filing. Support your child's future, but finance another proceeding. Remain composed, but keep waiting for an answer about a relationship that cannot be put into storage until the institution is ready.

SCALES examines the crushing weight of separation, delay, expense, and procedural demands—and asks what justice must do to lift it.

Drawing on legal authorities, clinical research, professional guidance, and the author's experience in technical service, Justin A. Tahai moves beyond condemnation to a practical argument for usable procedures, accountable decisions, and relief that arrives while it can still matter.

For lawyers, clinicians, parents, and anyone unwilling to mistake institutional endurance for a family's well-being.

A MOTION FOR PROSPECTIVE RELIEF

Justin A. Tahai is a father and former information-technology professional whose work examines access to justice, institutional responsibility, and practical reform.