

Foster Parent Rights: A Review
NYSCCC 26th Annual Conference
Uniting Families • May 9, 2015

**WHAT SHOULD A FOSTER PARENT DO IF THE BIRTH PARENTS SAY THEY
ARE WILLING TO CONSIDER A CONDITIONAL SURRENDER?**

By Margaret A. Burt, Esq. Copyright - 3/08

- 1. Consider hiring a lawyer** right away if you can - ask the lawyer to be come involved in the negotiations. Insist that you and/or your attorney need to be present at any negotiations. You will be living with this agreement long after the agency is no longer involved.

- 2. Don't let discussions occur without you.** If the surrender is going to be conditional on you adopting the child, then it has to be signed by you. That means you should be discussing the conditions as well – the caseworker should not just “present” you with the conditions that are going to be offered to the parent nor should the caseworker tell you that they have already reached the agreement and you “have” to agree to the terms.

- 3. Take your time** - this is a very important consideration - think carefully about what is being asked of you and your family - can you do this? Do not let yourself be “talked into” a deal in the hallway at court without having had time to think it over and discuss it calmly with your spouse and your lawyer.

- 4. Consider the alternatives.** Would it be better for the child and your family to have a termination occur with no terms? Ask what the agency's timetable would be for that alternative as well as the likelihood of a successful outcome.

- 5. Ask questions until you understand** exactly what is being proposed.

- 6. Ask to see the full agreement in writing in advance before you sign anything.** If you have trouble understanding what some terms means - will the birth parent understand it? Make sure everything is spelled out in the agreement as specifically as you think it needs to be so no one will have to wonder or question later what everyone agreed. **Make sure they give you a copy of the agreement at the time it is signed.**

- 7. The devil is in the details.** If there is going to be exchanges of photos or information, who is actually obligated to provide them? How will people be kept aware of changing addresses? If there are going to be visits, how long will they be, where will they be, will anyone have to supervise them, will anyone else be allowed to be at them? What about make-ups? What if your family wants to move? Can presents or cards be exchanged? How will you reach each other? Will there be controls on certain behaviors? Will the child be able to refuse visits? Under what circumstances can visits be ended - opinion of a therapist or a certain number of missed visits?

- 8. When will you expect to be able to finalize the adoption?** Will the birth parent be notified if there is a problem before the adoption or has this right been waived? Will the parent be able to revoke the surrender if there are problems before the adoption or has this right been waived?

LOOK BEFORE YOU LEAP