

July 3, 2019

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Re: S4203A/A2199A

Dear Governor Cuomo,

We write, as leaders of the Adoptive and Foster Family Coalition of New York, our state's foster and adoptive family association, to urge you not to sign S4023A/A2199A, The Preserving Family Bonds Act, that passed in the closing days of our most recent legislative session.

The Adoptive and Foster Family Coalition of New York, which was founded in 1975, has for decades advocated for more inclusive, integrated and collaborative approaches to foster care and adoption. We appreciate the importance of respecting and promoting children's relationship with all adults who play a key role in their lives, especially their birth parents. We recognize that this contact must be balanced with safety for the child and that the solution is unique for every child and every family.

In addition to our professional roles, we are also parents of children adopted from foster care. Both of our families have balanced providing the safety and stability that our children need with maintaining and nurturing their connection to biological family as is possible in our individual situations. We have done this because it is the right thing for our children, not because a court ordered us to do so.

Our reasons for opposition to S4203A/A2199A, which are rooted in our professional and personal experience, are as follows:

- **In New York, Termination of Parental Rights (TPR) proceedings occur in Family Court only after all other options have been considered and only after several years.** Our foster care is properly oriented on reunification whenever possible – the safe return of children from foster care to their biological parents. It is only after repeated attempts at support to remedy the parent's issues that results in foster care placement, and after

attempts to explore a conditional surrender of rights (in which the parent can outline post-surrender visitation and contact with their child) have failed that courts engage in the resource and time-intensive termination of parental rights proceedings. **Generally, TPR is invoked only when a parent has been repeatedly unable to meet the conditions for their child's safe return. These are often the most challenging cases, in which the parent is non-compliant and confrontational.**

- **New York state already ranks very low in terms of the time it takes for a child in foster care to achieve permanency – that is, leave foster care to return safely to their parent's care or be adopted.** Statewide, it takes almost five years on average. In New York City, the average is over five years. This costs the state more and means that the children and youth spend years without certainty. This legislation has the potential to make the situation worse, as prospective adoptive parents are scared off by the prospect of having court-mandated visitation.
- In New York, Family Courts will generally not discuss or consider TPR until the above conditions are met *and* a prospective adoptive parent is identified.
- **This bill does nothing to either secure or deny the right of adopted children to have contact and visitation with their biological siblings** who reside with other families. That right was already secured as the result of legislation passed in the 2017-18 legislative session and subsequently signed by you.
- **Despite press coverage to the contrary, the primary thrust of this bill was not the best interests of children**, but rather the concerns of biological parents who, as outlined above, have missed numerous opportunities to remedy their situation and regain custody of their children.
- **This bill does not consider the rights of children, especially youth 14 and older, to voice their wishes in regard to visitation with their biological parents.** As written, this bill seems to mandate that a young person previously abused by their biological parent (who in turn lost their rights when they could not remedy the situation) would be forced to visit with their biological parent – and that the adoptive parents, the very people our state vetted and chose to provide safety and security to this young person, could do nothing to prevent this continued contact. **This has the potential to re-victimize children and youth.**
- **This bill sets up a scenario in which a parent who, having lost their legal rights to their child, can re-petition Family Court for modification of visitation multiple times until the child reaches the age of 18.** Adoptive parents would be subject to appearing in court and responding to each petition – and would have to secure legal representation at their cost. For biological parents deeply aggrieved at their circumstances, the ability to repeatedly petition for expanded and modified visitation will give them another way in which to attempt to exorcise their anger. In these most difficult of cases, anger is often directed at the adoptive parents. Some aggrieved biological parents already use the ability to make repeated reports of alleged abuse by the adoptive family to the State Central Register of Child Abuse and Maltreatment as a way to harass the adoptive

family. This would give our the most aggrieved biological parents yet another tool and would set the child up for years of continued stress. For example, a child could be called to testify in these modification proceedings. Additionally, this will cost the state in terms of valuable court time in our already overburdened Family Courts.

Even with all of the support and restorative opportunities New York affords to parents who have abused or neglected their children, we know that some will not be able to parent their child, to provide them with the day-to-day stability and safety children and youth need. Adoption is best option in these cases.

The overwhelming majority of adoptions performed in New York today already provide for some level of openness and post-adoption contact. This varies greatly based on the particular situation and the individuals involved. This bill speaks only to those cases in which a level of cooperation and collaboration in the best interest of the child is not possible. Mandating visitation in these most entrenched and calcified of cases will not make children safer.

Instead of signing this bill into law, we ask that you call for an adhoc committee of stakeholders (youth, adoptive parents, biological parents, child welfare professionals and legislators) to explore and discuss better alternatives as a path to more appropriate practice and legislation. The reality is that the family situations present in extended foster care are complex. Adults and children need sustained support and guidance in working through difficult and sometimes conflicting issues. Mediation, already available to families experiencing divorce, may be one solution that an adhoc committee could explore.

This approach, which you employed after the 2017-2018 legislative session in which a flawed bill relating the right of adult adoptees to access their original birth certificates passed, was successful. In this case, you called on the Department of Health to form an adhoc committee of stakeholders. Out of this group came new, improved legislation which successfully passed in this most recent session and on which we eagerly await your signature.

We support parental contact, but this bill is not the solution. We would welcome an opportunity to meet with your staff to discuss this further. Thank you for your consideration.

Sincerely,



Sarah Gerstenzang
President



Richard Heyl de Ortiz
Executive Director