

## **Memo in Opposition** **A8020 (Joyner)/S5790 (Savino)**

*AN ACT to amend the family court act and the social services law, in relation to orders committing guardianship and custody of the child*

The Adoptive and Foster Family Coalition of New York (AFFCNY) is the professional organization that represents the thousands of foster parents, adoptive parents and kinship caregivers throughout New York State. We are **STONGLY OPPOSED** to A8020/S5790.

This act has been dubbed the “Preserving Family Bonds Act.” While we understand the intent, this proposed legislation should more accurately be called the “Permanent Foster Care Act.” **If enacted, this legislation will have a chilling effect on New York’s already abysmal record in recruiting foster and prospective adoptive parents** and in moving children to permanency. **New York is ranked 48th out of 50 states in finding permanent loving homes for children who have been in the foster care system** for two years or more.<sup>1</sup> In short, we are struggling to get freed children in foster care adopted. This legislation, if passed, would only worsen an already dire landscape.

**This legislation contradicts the legal construct that adoptive parents are the legal parents under the law**, imbued with 100% of the rights afforded to all parents, natural or adopted. These include legal and financial responsibility for their child and their child’s actions until the age of 21 – and the real consequence of accusations of neglect or lawsuits if these responsibilities are not met. Given this, a law that circumvents their rights is unwise and potentially creates unnecessary liability for adoptive parents.

**There is nothing in current law that explicitly prevents children and youth who are adopted from having contact, up to and including visitation, with their biological parents post-adoption. In fact, this already occurs routinely.** Contact and visitation post-adoption should be the result of discussion between adoptive and biological parents, but decisions about post-adoption contact and visitation should ultimately rest with the adoptive parents – the persons charged by our Family Courts and state law with ensuring the safety, stability and permanency of children.

With this legislation, instead of being governed by the best interest of the child, instead of allowing the adults involved to work in partnership to best support the child they love, **decisions would be driven by the wishes of the biological parent, who has shown through their choices and continued actions that they were unable to prioritize or meet their child’s basic needs.**

<sup>1</sup> As documented in the 2014 Federal Child and Family Services Review conducted by the Department of Health and Human Services.

**This legislation speaks to the “worst case scenarios” in our system – cases in which biological parents, despite being provided extensive support, services and legal representation, were unable to adequately stabilize their lives in order to provide a minimum sufficient level of ongoing care to their children.** These cases are those that cannot otherwise be resolved by the child’s safe return to their biological parent or the voluntary, negotiated surrender of parental rights, which can contain conditions including post-adoption contact and visitation. **In these contentious cases, this legislation seeks to insert ongoing court involvement that could continue for the entirety of a child’s upbringing.**

**The Coalition and our constituent adoptive parents understand that circumstances change and that a decision to terminate rights by Family Court does not mean a biological parent must be banished from a child’s life.** A child’s right to a broad circle of support that includes both adoptive and birth parents in a way that supports their healthy development and identity is unquestioned by the Coalition and by those in the child welfare system. Best practice, common sense and a growing raft of research tell us that the decision for post adoption contact should be driven by the best interest of the child.

**Not only would this bill, if enacted, wrongly shift the focus from the best interest of the child to the wishes of the court-terminated biological parent, it would unfairly subject adoptive families to years of ongoing legal expense and undeserved intervention.** Biological parents would be provided with free, taxpayer-funded legal representation. **Adoptive families would have no choice but to hire and pay for legal representation for themselves.**

Finally, the Coalition is troubled by the implicit message of this proposed legislation – that adoptive parents are little more than babysitters who “park and house” a child until their eighteenth birthday. Parents who adopt traumatized, neglected children from foster care deserve our state’s full support. While the Coalition does not believe this is the sponsor’s intention, adoptive parents do not deserve the disrespect this bill conveys.

Our state is already struggling to adopt freed children in foster care in a prompt, child-centered timeframe. New York is struggling to recruit and retain dedicated foster parents. This bill, if enacted, will only worsen these sad and tragic facts.

A child’s right to a broad circle of support that includes both adoptive and birth parents in a way that supports their healthy development and identity is unquestioned by the Coalition and by those in the child welfare system. This bill, however, is not the solution.

**For more information:**

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