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They Lost Custody. Should They Still Be Able to See Their Children?



Latoya Joyner, a state assemblywoman from the Bronx, said she was raised by a loving adoptive family after her biological parents lost custody of her. The same was true for Tracy L. VanVleck, the commissioner of human services in Seneca County.

But that is where their similarities end. The women are on opposing sides in an emotionally charged battle over a potential change in New York state adoption law that is awaiting Gov. Andrew M. Cuomo's signature.

The legislation, called [Preserving Family Bonds](#), would fundamentally shift the relationship that birth parents can have with their children after a court has taken the children away permanently and another family steps in to adopt them.

The proposed change has touched off a wide debate, some of it informed by the wrenching personal experiences of people who have not only gone through the foster care system but, like Ms. Joyner and Ms. VanVleck, now have the power to shape it.

Under the law, judges would be able to order that an adopted child stay in contact with a biological parent, including supervised visitation, if it helps the child. The order would apply even if an adoptive parent does not agree. Judges are currently banned from allowing any contact after ending a parent's rights.

Only eight other states allow judges similar leeway. The New York legislature passed the measure, but the governor's office is still reviewing it, said Caitlin Girouard, a spokeswoman for Mr. Cuomo.

[Ms. Joyner](#), a Democrat who was the lead sponsor of the bill, said completely severing ties meant she missed out on valuable time with her birth mother. They were reunited when Ms. Joyner reached adulthood, but her mother died just six years later.

"When she went into the hospital, I was the first person she called," said Ms. Joyner, 32. "We had a better relationship, but it was relatively short."

On the other side are many child welfare workers, including those with their own stories, such as Ms. VanVleck. She recalled being tugged between her biological family and her foster family for six confusing years before she was adopted. Her childhood, she believed, would have been better without that contact.

"There's the 'I love you's.' The 'I want you back.' There's the trauma of people not showing up," said Ms. VanVleck, 43.

A [major report](#) on adoption in 2012 showed that about 95 percent of infant adoptions are now open, meaning that children stay in some contact with their biological parents. Studies show the approach is largely beneficial. Children are less inclined to blame themselves, or to idolize their birthparents and demonize their adoptive parents. There is also the advantage of knowing family and medical histories.

But that trend has not reached cases in which the rights of parents are ended by a court, usually because the court has found evidence of abuse or neglect.

These cases, called terminations, usually occur after months or even years of legal wrangling and regular visits between birth parents and children while they are in foster care.

“The child grows up fully aware, knowing their parent. You go through this process,” Ms. Joyner said. “You don’t want to cut that contact off. That’s very traumatic.”

If parents voluntarily surrender their rights, they can often see their children after an adoption. Advocates for parents said the current law essentially punishes parents who fight to keep their children.

About 1,100 terminations were completed in the state in 2016, the last year for which numbers were available, according to the New York State Office of Court Administration. It is not known how many of those terminations were done over the objections of the parents.

Bill Baccaglini, president and chief executive of [the New York Foundling](#), a nonprofit foster care agency, said there was some merit to the arguments being made by the supporters of the bill, but he argued for a more measured approach.

“We’re going to go from zero to 360 in two minutes,” Mr. Baccaglini said.

The proposed law is not clear on what rights adoptive parents have during what could be a emotionally tumultuous or even a potentially unsafe situation, opponents argue. Adoptive parents are not simply caretakers for other people’s children, they said.

“Once they are adoptive parents, they are parents,” said David A. Hansell, commissioner of the New York City Administration for Children’s Services, which administers the city’s child welfare system.

Mr. Hansell said several changes might improve the bill: providing court-appointed lawyers to adoptive parents; allowing contact only if the adoptive parents and children, if over 14, agreed; and prohibiting contact if a parent’s rights were terminated because of severe and repeated abuse.

Mr. Hansell and other commissioners who oversee foster care and adoption throughout the state said court intervention could hamper the recruitment of potential adoptive parents, leaving children lingering in foster care for longer periods.

But Ms. Joyner, a lawyer who took office in 2015, said the bill was part of a larger progressive agenda that swept through this year's legislative session in Albany. There is no reason to start over, she said.

There had been a push for change since the state Court of Appeals decided in 2012 that the current law prohibited judges from ordering contact between children and birth parents after adoption. A handful of judges had been doing that before the higher court made its decision.

[Jeremy C. Kohomban](#), president and chief executive of the Children's Village, a nonprofit foster care agency based in Dobbs Ferry, N.Y., said he sympathizes with the concerns of foster care and adoptive parents. But he said the biological parents whose rights have been ended are overwhelmingly black, and the family court system must consider the impact of its actions on black families.

There is no overall database that tracks visitation agreements statewide. But in a recent one-year period, the New York Foundling finalized 35 adoptions after biological parents surrendered custody, and 24 adoptions after those rights were terminated by a court. None of the parents whose rights were terminated were allowed contact or visitation, while most of those who agreed to relinquish rights had some contact with their children.

Ms. VanVleck said she understands biological parents love their children and want to fight to keep them. But love, she argued, could also mean letting go. When children grow up, they can understand that their birth parents were not able to adequately provide for them, she said.

Supporters of the bill countered that severing ties carries a finality that ignores the ability of parents to change and improve.

Tatianna, a 17-year-old girl who lives in the Bronx, said she has not seen her mother in 14 years. She blamed the pain of that separation for behavioral and social troubles she has had since then.

Tatianna, whose last name is being withheld because she is not an adult, said she is a high school dropout, pregnant and living in a group home after a relative who had adopted her voluntarily placed her back into foster care last month.

Meanwhile, she said, her mother was able to conquer an addiction and receive custody of one of Tatianna's siblings. "She's clean. I would have loved to go on that journey with her to help her get clean faster," Tatianna said.

Her mother did not respond to a request for comment.

Tatianna said she is now counting down the days to her 18th birthday. "I was told if I communicated with her, she and I can both get in trouble," she said. "She wants me back, but we all know how that goes in New York."

Susan Beachy contributed research.