

December 22, 2021

The Honorable Kathy Hochul
Governor of New York State
NYS Capitol Building
Albany, NY 12224

RE: The Preserving Family Bonds Act, S.6357(Savino)/A.6700 (Joyner)

Dear Governor Hochul:

The New York County Lawyers Association (“NYCLA”) Committee on the Family Court and Child Welfare strongly supports the Preserving Family Bonds Act and urges you to sign this vital legislation into law.

NYCLA has a long history of involvement with Family Court and Child Welfare issues.¹

The Preserving Family Bonds Act provides Family Court judges with discretion, taking into account the best interests of the children, to order continued visitation and/or contact between children and their families of origin after a parent’s rights are involuntarily terminated, and recognizes the value that post-termination contact may have for children and their families of origin.

Foster children whose parents surrender them for adoption are able to continue to have contact with the parents, in appropriate cases, when the parents sign a “conditional” surrender and the agency accepts it. The court must review the provision for post-adoption contact and will not approve the surrender if the contact is not in the best interests of the children.

In contrast, with respect to foster children who are freed for adoption by a successful Termination of Parental Rights proceeding, the court cannot order post-adoption contact. Most children placed in foster care have significant ties to their biological families. A growing body of

¹ Examples include:

- (i) Report of the NYCLA Committee on the Family Court and Child Welfare Regarding S.4383 of the New York State Legislature (2005) (<https://www.nycla.org/siteFiles/Publications/6-05familycourtreport.pdf>),
- (ii) NYCLA Task Force on the Family Court Initial Report (2010) (https://www.nycla.org/siteFiles/Publications/Publications1381_0.pdf),
- (iii) NYCLA CLE Institute Program, Direct Representation of the Child in Family Court: Practical Realities and Current Struggles (2015): (<https://www.nycla.org/PDF/Direct%20Representation%20of%20the%20Child%20in%20Family%20Court%20-%202005.13.15.pdf>)
- (iv) NYCLA’s long-standing Pro Bono State Central Registry Project, represented individuals who have wrongfully or unfairly be placed on the New York State Central Registry of Child Abuse and Maltreatment (https://www.nycla.org/NYCLA/Pro_Bono/For_General_Public/NYCLA/Pro_Bono/Need_Legal_Help.aspx?hkey=68a403ec-825b-4854-84e4-4f8289ebca1a)

research suggests that retaining contact with biological family members may, in appropriate cases, be in that child's best interest. Even when a biological parent is unable to care for their child, post-termination contact allows the child to retain a relationship with his or her original family, and allows a biological parent to play a positive role in the child's life.

We believe that, where parental rights are terminated involuntarily, there should not be a blanket rule preventing the court from ordering, in appropriate circumstances, continued contact with the original parents, as it may do in cases where parents surrender children for adoption voluntarily. It is consistent with good public policy to permit a court, in appropriate circumstances, to grant all adopted children beneficial and necessary contact with their biological families. This bill would thus correct an anomaly in the current law.

Finally, the Act is consistent with the federal government's latest guidance regarding state efforts to obtain permanency for children in foster care, issued in January 2021.

Thank you for consideration of our comments. If you have any questions, please do not hesitate to contact Co-Chair David Lansner at 917-704-6534 or dlansner@lanskub.com.

Sincerely,

David Lansner and Nicola Gibson
Co-Chairs, NYCLA Committee on Family Court and Child Welfare²

cc: Anthe Maria Bova, General Counsel & Director of Pro Bono Programs

² The views expressed here are those of the NYCLA Committee on Family Courts and Child Welfare, have not been approved by the New York County Lawyers Association Board of Directors, and do not necessarily represent the views of the Board.