

Myths & Facts

The Preserving Family Bonds Act



- X Myth:** The bill improperly takes away a legal parent's right to make a decision about who their child has contact with.
- ✓ Fact:** Parents' rights to determine who their children have contact with is not absolute. The law already allows the court to order contact with a child's grandparents or siblings over the objection of the child's parent. This law appropriately recognizes the need for the court to step-in in limited occasions, and only when a parent is unreasonably preventing a child from having contact with their biological relatives.
- X Myth:** It's best to leave the question of ongoing contact to adoptive parents and biological parents to work out.
- ✓ Fact:** The bill only applies when the parties can't work out an agreement and the court has found that consent for the contact is being unreasonably withheld although it would be in the child's best interest.
- X Myth:** The law would discourage parents from adopting/fostering.
- ✓ Fact:** The vast majority of foster and adoptive parents understand why preserving family bonds is in a child's best interest, so this law would come into play for only a very small number of families. During the period of time when New York courts were issuing the kind of orders that Preserving Family Bonds would allow, there was no impact on the number of available foster homes. The bill may actually increase the number of adoptions because older children may be more willing to consent to an adoption, knowing that they do not have to give up contact with their biological families.
- X Myth:** The law would allow contact with biological parents who have abused and traumatized the child.
- ✓ Fact:** The law would not permit the court to make an order for ongoing contact when there has been a finding of severe or repeated abuse, or when the contact would be

harmful to a child. The bill would allow the court to order contact only when it would be against the child's interests to sever all ties with their biological parents.

- X Myth:** This law will force children to visit their biological families against their will.
- ✓ Fact:** The law would allow the court to order ongoing contact only if it finds that it would be in the child's best interest. That determination includes consideration of the child's wishes/desires. And, for children over the age of 14, the law prohibits the court from issuing a contact order unless the child consents.
- X Myth:** The Preserving Family Bonds Act legislation allows for biological parents to ask a court for contact after the adoption has been finalized.
- ✓ Fact:** The law would allow biological parents to make an application for post-adoption contact only while a Termination Parental Rights case is pending. The biological parent **CANNOT** file a petition for contact **AFTER** the adoption is finalized.
- X Myth:** The law would compromise the finality of adoptions by allowing biological parents to repeatedly bring adoptive parents back to court.
- ✓ Fact:** If the court denies the biological parents' request for continued contact, the parent may not return to court to request contact. If the court grants the request for contact when parental rights are terminated, the parties may return to court if the order is violated, or needs to be modified. These provisions allow the adoptive parent to seek the court's assistance post-adoption, if necessary.
- X Myth:** The law is unfair to adoptive parents who do not have the right to assigned counsel in hearings regarding post termination contact.
- ✓ Fact:** Pursuant to Family Court Act §262(a)(iv), the parent or any person having physical or legal custody of a child has the right to assigned counsel in any proceedings pursuant to Social Services Law §384-b, which governs these proceedings.

