

Giving Incarcerated Parents A Fighting Chance To Reunite With Their Children

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Sen. Montgomery, Assemblyman Aubry & Children and Families Commissioner join together to protect families from being separated. Lawmakers and criminal justice reform advocates joined together at the State Capitol last week to garner support for legislation (S.2233/A.5462-A) that will allow foster care agencies the discretion to delay filing papers to terminate the parental rights of parents who are incarcerated or enrolled in a substance abuse treatment program.



Making the Right Connections: Brandon, 13, (center), at State Sen. Velmanette Montgomery's right, stated at a recent press conference: 'I'm glad my mom is by my side right now helping other children get their moms back and passing this bill. I just want to say that I'm glad that I have her and I love her.'

The bill's sponsors, Senator Velmanette Montgomery (D-Brooklyn) and Assemblyman Jeffrion Aubry (D-Queens), were joined in discussing their legislation by New York State Children and Families Commissioner Cladys Carrion, Correctional Association representatives, and formerly incarcerated women and their children.

The Adoption and Safe Families Act (ASFA) Expanded Discretion bill gives incarcerated parents and their children a greater opportunity to work towards reunification and safe permanency options that do not involve severing family bonds.

"The time is now to pass my bill, which will go a long way toward helping families develop and maintain healthy, lasting connections," said Senator Montgomery, who is the Chairperson of the Senate Committee on Children and Families. "For too long, we've failed to protect the best interests of children in foster care with parents in prison and treatment programs. I sponsored this bill to give families separated by the criminal justice and child welfare systems the fighting chance they deserve to rebuild and stay whole."

Almost always, ASFA requires a foster care agency to file a termination of parental rights petition if a child has been in foster care for 15 of the last 22 months. However, the median sentence length for women in New York's prison system is 36 months and most incarcerated parents are limited to family visiting opportunities, telephone and mail service and unable to participate in foster care planning meetings, making it difficult to fulfill child welfare responsibilities.

More than 100,000 children have parents in a New York State prison or jail, including nearly 10,000 children with an incarcerated mother.

Terminating their parental rights will not necessarily find equal permanency for a child and many continue to stay in foster care. “This legislation will allow parents in prison and residential treatment, who are working towards rehabilitation, an opportunity to maintain and develop loving, supportive relationships with their children and to find permanent placements that do not involve severing important family bonds forever,” said Assemblyman Jeffrion Aubry, Chair of the Committee on Correction. “Giving these families the chance to stay connected is the right thing to do – it is also a crucial component of curbing recidivism and enhancing public safety.”

“For over a decade, New York’s ASFA laws have devastated parents caught up in the criminal justice system and their children,” said Tamar Kraft-Stolar, Director of the Women in Prison Project at the Correctional Association of New York. “This bill takes critical steps toward balancing the playing field for families separated by prison and treatment programs struggling to stay connected. Its provisions will help ensure that ASFA’s timeline does not trump permanency decisions that are best for the child and the family.”

Susan Jacobs, Executive Director, Center for Family Representation, stated: “Our organization represents hundreds of parents, including parents in prison, in child protective and termination of parental rights proceedings. We know from years of experience that having the time to facilitate meaningful visits and communication can mean the difference between a family staying together and losing ties forever. In addition, termination hearings are among the most time-intensive and expensive proceedings in Family Court. When additional time is provided to work on solutions, it is possible to create workable and safe placements for children, and savings for state and local governments.”

The ASFA bill passed the Assembly on January 26, 2010 and now awaits consideration by the full Senate.

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