

Gov. Hochul Signs Into Law Measure Granting Custody Hearings to Unwed Fathers

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Body

OVER the objection of dozens of adoption attorneys, Gov. Kathy Hochul signed the Parental Equity Act, a big departure from prior New York laws relating to consent rights for unwed biological fathers who contest their child's adoption. Written by Amy Mulzer, a senior attorney with Brooklyn Defender Services, with help from New York University law professor Christine Gottlieb, the law aims to bring fairness to birth fathers by granting full and fair hearings regarding their fitness to care for children who were moved into foster care by the state. The law took effect immediately. Previously, a biological father was entitled to contest an adoption only if he maintained a requisite level of contact with the child and paid reasonable financial support. Bill backers said these were undue and unreasonable burdens that didn't exist for single mothers and married fathers. The 35-member New York Attorneys for Adoption and Family Formation asked Hochul to veto the bill because they said the amendment would make adoption proceedings more complicated, lengthier and expensive. Mulzer and Gottlieb worked on the bill as part of the Parent Legislative Action Network, a coalition of parents who claim to have been harmed by the family regulatory system, along with attorneys, social workers and members of academia. "As public defenders, we have seen fathers who had close and loving relationships with their children lose their bonds forever without even being given the benefit of a trial because New York's Domestic Relations Law treated mothers and fathers unequally," Mulzer said. "The Parental Equity Act sets out clear steps that a father can take to protect his legal right to maintain a relationship with his children, and will help to ensure that father-child relationships are not treated as inherently 'less-than' based on outdated stereotypes," she said. Gottlieb said the prior laws "were written at a time when there were very different ideas about this stuff an assumption that, if the father wasn't married to the mother, he wasn't going to be involved." "Today, that's not a reasonable assumption to make, and fathers are as important to their kids, whether

the parents are married or not," said Gottlieb, co-director of NYU's School of Law Family Defense Clinic. Gottlieb said the old laws promoted "obvious" gender discrimination, and she also saw it as a racial-justice issue because the cases often appeared to devalue low-income Black and brown fathers' relationships with their children. "It's just really gratifying that, finally, New York law has come into the 21st century," she said. To the extent possible, New York laws are meant to keep families together, Gottlieb said. "It's supposed to be quite difficult to terminate parental rights, because it's such a draconian thing to do it's not an accident that is called the civil death penalty." The professor said foster care agencies had even been denying hearings to fathers who had been living with their children. "They would often give the father a service plan," as a path to get their children back, Gottlieb said. "But then at the end, if they didn't want to give the kid back and they wanted to move toward adoption, they would say, 'We're going to terminate the mother's rights, but we don't have to terminate your rights because you don't have any.'

So really, a very egregious kind of gotcha." But Casey DiPaola, president of the New York Attorneys for Adoption and Family Formation, called the amendment "a drastic departure" from the state's "child-centered approach" that had been at the core of New York adoptions. The letter to the governor suggested the law would flip the state's longstanding mandate that birth fathers "grasp the opportunity and accept some measure of responsibility" if they wanted to enjoy the protections of a parent-child relationship. It cited the 1983 U.S. Supreme Court adoption case *Lehr v. Robertson*. Ultimately, it will be "more difficult, time consuming, and costly to free children for adoption, thereby increasing the length of time children are required to remain in foster care, and likely preventing many adoptions from finalizing altogether," wrote DiPaola, a partner in Copps DiPaola Silverman, and a fellow of the Academy of [Adoption & Assisted](#) Reproduction Attorneys. The bill was sponsored by state Sen. Jabari Brisport, D-Brooklyn, and Assemblymember Andrew Hevesi, D-Queens. Brisport, a gay Black man, told Senate colleagues that his introduction to politics came from organizing against laws that said he was unfit to get married or raise children, and "there are many kinds of families, and a legal system that does not recognize or respect that ultimately hurts children the most."