

July 5, 2017

The Honorable Andrew M. Cuomo  
Governor of New York State  
New York State State Capitol Building  
Albany, New York 12224

**RE: Veto of A5036B/S4845B**

Dear Governor Cuomo:

We are a diverse group of adoptees, organizations, birthparents, adoptive parents, professionals, and allies who support equal civil and human rights for all adoptees. Many of us also work on behalf of millions of adult adoptees in the United States, including more than 600,000 in New York, who seek to restore the right of adult adoptees to obtain their own original birth certificates (OBC), without restriction or condition.

We are united in requesting:

1. Your veto of A5036B/S4845B ("A5036B"), which if enacted will continue to abrogate the rights of New York adoptees;
2. Your return of A5036B to the New York State Assembly with a note to move forward on a different, better, and fiscally responsible bill that provides actual and genuine equality for adult adoptees; and
3. Your support of currently active adoptee rights companion bills in the New York State Assembly and Senate (S5169A/A6821A). Unlike A5036B, these bills unequivocally restore the right of New York adult adoptees to access their own original birth certificates. They recognize that New York's outdated 1930s-era adoption policies do not promote anyone's rights, particularly in the age of DNA tests, genetic genealogy, social media, and other technological advances that have made adoption secrecy obsolete.

**What A5036B Does**

A5036B is not an adoptee rights bill. If enacted, it will not restore an adult adoptee's right to an original birth certificate. It has no support from any adoptee rights organization and has been met with broad derision and rebuke from adoptees and the adoption community in the United States and internationally. It is instead a complicated and convoluted bill that will, if enacted, create a complex and expensive process that

favours bureaucracy over rights and fiscal irresponsibility over outcomes. The bill, which did not receive a hearing:

- Requires the judiciary to handle adult adoptee requests for release of an original birth certificate;
- Requires the judiciary to refer those requests to the New York State Department of Health (DOH), which must, at taxpayer cost, attempt to locate and notify birthparents of the adoptee's request within 120 days;
- Requires the DOH to develop "confirmation" forms that DOH provides birthparents for completion. A birthparent may request "continued confidentiality" on the form or indicate consent to release the adoptee's unredacted original birth certificate.
- Gives birthparents a special "right" —which no other parent or party possesses— to redact information from a government-issued birth certificate;
- Requires the DOH to report to the judiciary on the status of searches and notifications;
- Requires additional judicial review and gives "discretion" to a judge to release, or redact, an original birth certificate if a birthparent has died or cannot be located and notified;
- Does not allow descendants of adoptees to request the adoptee/ancestor's original birth certificate, no matter the date of the ancestor's birth;
- Requires the DOH to develop a costly and "widely disseminated" publicity campaign to promote the New York adoption registry and to educate the public on the specific provisions of A5036B.
- Does not appropriate funds to provide training and support for the mandated DOH search and notification process, which can be laboriously expensive and highly unreliable, given that decades have passed since the birth of most adoptees. Assuming very conservatively that just 6,000 New York adoptees apply for their OBC in the first year,<sup>1</sup> the fiscal impact on the DOH is likely in the millions of dollars, particularly when the search and notification process must be completed within 120 days.

The bill is economically unsound. It will require a significant shift of state agency resources and personnel away from executive budget priorities and into an unnecessary and expensive bureaucratic process that is intended solely to benefit a tiny number of birthparents who purportedly wish to remain anonymous.

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<sup>1</sup> This likely vastly underrepresents the number of New York adoptees who would apply. In Oregon, more than 5,800 adoptees applied for their OBCs in the first year of implementing a new OBC access law.

## **Support for Genuine Adoptee Rights**

Existing laws in other states have upheld an adult adoptee's unrestricted access to an original birth certificate proactively, equitably, and without undue disruption to anyone involved in the adoption. Original birth certificates in Kansas and Alaska **have always been available upon request to adult adoptees**, without incident or issue. Colorado, Hawaii, Alabama, Oregon, Maine, Rhode Island, and New Hampshire also provide adult adoptees with unrestricted access to their own original birth certificates, doing so through a simple request to the state DOH/Vital Statistics and without the need for complex systems involving searches, intermediaries, counseling, or requirements other than what all non-adopted persons are required to do: pay a nominal fee and supply government identification.

Laws change constantly, and the state, lawyers, social workers, and others were never in a position to promise anonymity in adoption. In fact, in the over forty years of the adoptee equality movement, not one document has been submitted anywhere that promises or guarantees sealed records and an anonymity "right" to birthparents. Rather, the vast majority of birthparents say they did not and do not want anonymity, but that it was forced upon them by the state.

In addition, identifying information about surrendering parents often appears in court documents given to adoptive parents who can at any point give that information to the adopted person. In some states adoptive parents, at the time of adoption finalization, can ask the court to keep the record open. The names of surrendering parents are published in legal ads. Courts can open "sealed records" for "good cause." Critically, the OBC is sealed at the time of adoption finalization, not surrender. If a child is not adopted, the record is never sealed. If a child is adopted, but the adoption is overturned or disrupted, the OBC is unsealed.

States have addressed concerns about birthparent privacy through the use of a contact preference form (CPF), a form that birthparents may voluntarily submit to indicate whether they do or do not prefer contact with the adoptee. The form is then included in the adoption file and forwarded to the adoptee along with the OBC if and when the OBC is requested. The CPF does not affect the release of the OBC to the adoptee.

A5036B falls far short of these measures and, in fact, closely resembles a forty-year old Minnesota law that the Minnesota state registrar recently described as "complicated at

best” because it “has gaps, creates inequities, and is cumbersome to oversee and operate.”<sup>2</sup>

If enacted, A5036B will become just that: a law that one of your executive agencies will determine to be cumbersome and difficult to implement without incurring significant cost and simultaneously creating inequity and complications. It is a law that no adoptee wants. It is also a law that taxpayers will find difficult to reconcile with your own executive, budgetary, and civil rights priorities.

### **A Way to Move Forward**

At the recent assembly floor debate over A5036B, Assemblymember Dean Murray— a cosponsor of the bill—changed his vote and called for advancement of, and ultimately cosponsored, a “better bill”—after hearing from hundreds of constituents like us. As he said from the floor:

What surprised me was every single one of these emails, every single one of these messages I got, they begged me to please vote no on this. As much as--- as I said, I'm a cosponsor of the bill and I recognize what we're trying to do, but **when we have the people we're trying to help reaching out begging, saying please vote no on this, I'm going to have to vote in the negative on this bill . . .**

Now it's my turn to beg. **I'm going to beg and I'm going to plead the majority leadership to let the other bill move forward. Let the bill move forward that is going to deliver what [adoptees] really want and need.**

Other assembly members and senators expressed similar reservations, stating that “better bills” were available and that they in fact supported those bills. Indeed, numerous legislators this past session endorsed and supported the two “better” companion bills—S5169A and A6821A, known as the Adoptee Bill of Rights.

These bills will restore an adult adoptee’s unrestricted access to an original record of birth and create equal birth certificate access for all New York adoptees. The bills treat the state’s adoptees as equal to non-adopted persons by eliminating a currently humiliating, costly, and rarely successful process that adoptees must endure when requesting their own birth certificates. S5169A and A6821A recognize and restore the

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<sup>2</sup> Molly Crawford, State Registrar for the Office of Vital Records, Minnesota Department of Health, “Information and Technical Assistance for the Legislative Commission on Surrogacy,” November 22, 2016.

right to OBC access that all New York adoptees enjoyed until 1935, and reflect a simple, inclusive, and unrestricted access framework that nine states have successfully implemented.

In vetoing A5036B, you will continue efforts to reform New York’s law to assure equality for all adult adoptees. Your veto of A5036B would serve to put genuine adoptee rights back on the legislative agenda. That is the way forward, not a regressive, complicated, and costly bill that does little except create and enshrine new “rights” and perpetuate a policy of discrimination that fails to reflect democratic values of equality.

Adoptee access to their own original birth certificates is not a radical idea. Adoptees instead ask for nothing more than the right to their own birth certificates, a right that the non-adopted enjoy without a second thought. Adoptees are not asking for “special rights;” they ask only for restoration of a right in New York that was once theirs.

We ask that you veto A5036B and return the bill to the legislature with a note to pursue better legislation. We request your support for a true adoptee rights bill. We ask that you send a strong message of support for equal rights, as exemplified by S5169A/A6821A.

Best regards,

**ENDORISING ORGANIZATIONS (In Alphabetical Order)**

\*indicates an organization with a national or international focus

**ACCESS CONNECTICUT**

Karen Caffrey, President  
West Hartford, Connecticut

**ACCESS MARYLAND**

Linda Clausen, MSW, Coordinator  
Maryland

**ACCESS RHODE ISLAND**

Nancy Horgan  
Rhode Island

**ADOPTEE RIGHTS COALITION\***

Lynn Grubb, President  
Ohio

**ADOPTEE RIGHTS LAW CENTER\***

Gregory Luce, Founder/Attorney  
Minneapolis, Minnesota

**ADOPTEES IN SEARCH - COLORADO'S TRIAD CONNECTION**

Richard Uhrlaub, President  
Denver, Colorado

**ADOPTEES WITHOUT LIBERTY\***

Peter Franklin  
New Jersey

**ADOPTIEZAKEN & FAMILIERECH (AZF)**

Tj. Strubbe  
The Netherlands

**ADOPTION CIRCLE OF HAWAI'I**

Jan Takane, Board Secretary  
Honolulu, Hawaii

**ADOPTION KNOWLEDGE AFFILIATES**

Jennifer R. Cochran-Green, President  
Austin, Texas

**ADOPTION RIGHTS ALLIANCE/THE PHILOMENA PROJECT\***

Mari Steed, United States Coordinator  
Ireland

**ADOPTION SUPPORT ADVOCATES**

Shawna Hodgson and Kim Dimick, Co-Founders  
Houston, Texas

**AMERICAN ADOPTION CONGRESS\***

Amory Winn, President  
Santa Fe, New Mexico

Tim Monti-Wohlpert, Interim Legislative Chair and New York State Representative  
Brooklyn, New York

**BANISHED BABIES OF IRELAND\***

Erin Cox  
Ireland

**BASTARD NATION: THE ADOPTEE RIGHTS ORGANIZATION\***

Marley Greiner, Co-founder/Executive Chair  
Columbus, Ohio

**CALIFORNIA OPEN**

Jean Uhrich  
California

**CONCERNED UNITED BIRTHPARENTS, INC.\***

Patty Collings, President

**DONALDSON ADOPTION INSTITUTE\***

April Dinwoodie, Chief Executive  
New York, New York

**EQUAL ACCESS OKLAHOMA**

Staci Neasby, Coordinator  
Oklahoma

**INDIANA ADOPTEE NETWORK**

Jennifer Fahlsing, Secretary  
Huntington, Indiana

**INDIANA OPEN ACCESS**

Lisa Zatonsky, President  
Salem, Indiana

**KNOW MY OWN\***

Martin Parfrey, Founding Member/Chair  
Cork, Ireland

**MICHIGAN OPEN ACCESS**

Mona Brant, Co-Administrator  
Michigan

**MINNESOTA COALITION FOR ADOPTION REFORM**

Penelope Needham, Executive Board Chair  
Minneapolis/St. Paul, Minnesota

**MISSOURI OPEN**

Mirren Theiding, Co-Leader

**NATIONAL CENTER ON ADOPTION AND PERMANENCY\***

Adam Pertman, President and CEO  
Boston, Massachusetts

**NEPAL ADOPTIVE FAMILIES ASSOCIATION\***

Amy Hecht, President  
Nepal

**NEW JERSEY COALITION FOR ADOPTION REFORM AND EDUCATION (NJCARE)**

Pam Hasegawa, NJCARE Steering Committee  
New Jersey

**NEW YORK ADOPTEES, BIRTHPARENTS AND SIBLINGS SEARCHING**

Joan Edelman, Coordinator  
New York

**NEW YORK STATE ADOPTEE EQUALITY**

C. Catherine Swett, Esq., Founder/Downstate Coordinator  
Bronx, New York

**NEW YORK STATEWIDE ADOPTION REFORM'S UNSEALED INITIATIVE**

Joyce Bahr  
New York

**OKLAHOMA FOR OPEN RECORDS AND ADOPTION HONESTY (OORAH)**

Mary Payne, President  
Edmond, Oklahoma

**OPEN ADOPTION RECORDS IN QUEBEC**

Manon McGinty, Georgia May, and Marisa Cooper, Co-organizers  
Quebec, Canada



**PENNSYLVANIA ADOPTEE RIGHTS**

Priscilla Stone Sharp  
Pennsylvania

**POST-ADOPTION CENTER FOR EDUCATION AND RESOURCES (PACER)**

Theresa Vitt, President  
Hayward, California

**RECLAIM THE RECORDS\***

Brooke Schreier Ganz, President and Founder  
Mill Valley, California

**TEXAS ADOPTEE RIGHTS**

Connie Gray, President  
Austin, Texas

**THE ADOPTEE RIGHTS MOVEMENT (ISRAEL)\***

Gilad Jacobsen

**THEM BEFORE US\***

Katy Faust, Founder  
Seattle, Washington

**UNITED SURVIVORS\***

David Kinsella  
Ireland

**UTAH COALITION FOR ADOPTION REFORM AND EDUCATION**

Britany Luna  
Utah

**WASHINGTON ADOPTION REUNION MOVEMENT**

Valerie Oren-Stewart  
Seattle, Washington

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Trenton Mays  
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Andrew Seiner  
Libby VanSolkema  
Kristi Lado  
Judith Scanlon  
David J Gilliland  
Winter Catlyn  
Patricia Florin  
Tess Campbell  
Celia Warner  
Roberta Martello  
Jennifer Hemion  
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Susan Tavela  
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Loretta Goodwin  
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Rebecca Francis  
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Mary Oleske  
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Rita Kahle-Rice  
Nancy McGuire  
Pamela Perkins Zirbel  
Linds Ainbinder  
Christine Rahl  
Maureen McCauley Evans

Robin Goldwasser  
Joan Weinberg  
Michele Cole  
Sara Concetto  
Sherrie Klemm  
Raymond Dehn, Jr.  
Kathleen Breslin  
Irene Selak  
Susan Hazsert  
Sally Newhouse  
Sharon Robinson  
Philip Soulia  
Amanda Soulia  
Nancy McCann  
Elizabeth Berg  
Sherry Lilly  
Crystalle Miller  
Megan Bryant  
Shannon Nagy  
DeAnna Arellano  
Marta Crane  
Mary Gilmore  
Michelle Hargrave  
Erik Karlson  
Leonard Visco  
Kathy English  
Naomi Chesler  
Steven Baranowski  
Don Dove  
Joyce Bahr  
Deborah Darpino