

NYA AFF

New York Attorneys for Adoption & Family Formation



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May 11, 2024

TO: Senator Holyman-Sigel

Re: **Senate Bill 7261 / Assembly Bill 8412: Birth Certificates for Adult Adoptee Born Outside the US**

Dear Senator Holyman-Sigel:

This letter is respectfully submitted in support of bill number A-8412 and S-7261, which would amend the Public Health Law (“PHL”) § 4138-b as it relates to the issuance of birth certificates for adult adoptees who were born outside of the United States. Our organization, New York Attorneys for Adoption and Family Formation, Inc. (“NYA AFF”) is comprised of licensed New York attorneys concentrating in the fields of adoption and family formation. All of the members of NYA AFF are also members of the Academy of Adoption and Assisted Reproduction Attorneys (AAAA), an international organization of attorneys recognized for their expertise in this highly specialized area of the law.

Currently, Public Health Law § 4138-b affords *children* born outside of the United States, but adopted in New York State or adopted by New York state residents, the opportunity to obtain a New York State birth certificate provided they were adopted and made the application for the New York State birth certificate before the adoptees’ 18th birthday. Children born abroad, but adopted after their 18th birthday, and those adopted abroad by New York residents who do not obtain a Certificate of Birth Data from the Department of Health prior to their 18th birthday, are precluded from obtaining a New York State birth certificate. The members of NYA AFF are



well aware of the hardship this restriction poses for the many adoptees who are now unable to obtain birth certificates because their parents were unaware of the importance of obtaining this critical document prior to their child's eighteenth birthday. Adoptees in this unfortunate situation must rely on foreign birth certificates, which may be written in a foreign language and may include the adoptees' pre-adoptive name, as the only birth certificate available to them. Even more disadvantaged are those children who may have lost or damaged their original foreign birth certificates and who are unable to obtain a replacement because they were adopted from countries experiencing internal discord, (Ukraine, Haiti) or adopted from countries having an uncooperative relationship with the United States (Russia and China). In short, adult adoptees who lack a New York birth certificate confront daunting challenges as they mature and seek to register for school, obtain special educational services, obtain a license to drive, marry, obtain disability and as they engage in the myriad of life functions where presentation of a birth certificate is required.

The proposed amendment to New York PHL § 4138-b would afford all "persons" either adopted abroad by New York State residents or adopted in New York state, the opportunity to obtain a New York State birth certificate regardless of their age at the time of the initial request. Another important provision in the proposed legislation, which would allow the submission of an attorney certified photocopy of the required foreign adoption document, addresses the very real concern that these irreplaceable documents could be lost in transit to the Department of Health or lost by the Department of Health itself.

The hardship currently experienced by some foreign-born adoptees could not have been intended by the drafters of PHL 4138-b. This problem can be easily remedied by changing the word "Child" (in reference to those able to obtain birth certificates) to "person of any age". That small change will allow foreign born New York adoptees the same right to obtain proof of their identity as all other New Yorkers.

We thank you for your support of this important piece of legislation. Please contact our Legislative Committee Co-Chair and Director, Denise E. Seidelman, Esq., at 914-779-1050, or by email at dseidelman@adoptionlawny.com, to discuss this matter in greater detail. Thank you for your time and attention.



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