

# NYA AFF

New York Attorneys for Adoption & Family Formation

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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 (also known as “Certificates of Birth Data”) 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 the opportunity to obtain a New York Birth Certificate provided they were adopted and requested the amended Birth Certificate before their 18<sup>th</sup> birthday. Unfortunately, New Yorkers born and adopted abroad who failed to request a New York Birth Certificate prior to their 18<sup>th</sup> birthday and those adopted in New York after their 18<sup>th</sup> birthday are precluded from ever obtaining a New York Birth Certificate. Our organization’s members are well aware of the hardship this restriction poses for the many adult adoptees who are now precluded from obtaining a Birth Certificate because their parents were unaware of this important and time sensitive requirement. 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 have lost or damaged their original foreign birth certificates and are now unable to obtain a replacement from their country of origin because they were adopted from countries experiencing internal discord, such as Ukraine, Haiti, Guatemala and Russia. In short, foreign born adult adoptees who lack New York Birth Certificates confront daunting challenges as they mature and seek to obtain a license to drive, marry, or engage in the myriad of life functions where Birth Certificates are required.

The proposed amendment to New York PHL § 4138-b would afford all "persons" (rather than "children"), 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 that request. Another important provision in the proposed legislation would allow the submission of attorney-certified photocopies of the required foreign adoption documentation. This provision addresses the very real concern that the irreplaceable foreign adoption documentation 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 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 NYAAFF Board Member Denise Seidelman at 915-779-1050 or by email at [dseidelman@adoptionlawny.com](mailto:dseidelman@adoptionlawny.com) to discuss this matter in greater detail. Thank you for your time and attention.



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**New York Attorneys for Adoption and Family Formation**  
By: Kathleen (“Casey”) Copps DiPaola, Esq.  
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