



# Office of Children and Family Services

Kathy Hochul  
Governor

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## Informational Letter

<b>Transmittal:</b>	22-OCFS-INF-12
<b>To:</b>	Local Departments of Social Services Commissioners
<b>Issuing Division/Office:</b>	Division of Child Welfare and Community Services New York State Commission for the Blind
<b>Date:</b>	December 29, 2022
<b>Subject(s):</b>	The Blind Persons Right to Parent Act
<b>Suggested Distribution:</b>	Commissioners of Social Services Directors of Social Services Child Welfare Supervisors Foster Care Supervisors Adoption Supervisors
<b>Contact Person(s):</b>	See section IV.
<b>Attachments:</b>	None

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			Social Services Law § 393  Domestic Relations Law §§ 75-m and 111-d  Family Court Act §§ 643 and 658		Chap. 442 of the Laws of 2021

### I. Purpose

The purpose of this Informational Letter (INF) is to inform local departments of social services (LDSSs) of newly enacted legislation known as the “Blind Persons Right to Parent Act” (the Act) that was enacted via Chapter 442 of the Laws of 2021. This newly enacted legislation amends the Domestic Relations Law (DRL) and the Family Court Act (FCA) to prohibit decision-making regarding guardianship, custody, visitation or adoption petitions based solely on a parent’s, guardian’s or custodian’s blindness. The Act also amends the Social Services Law (SSL) to prohibit LDSSs from denying, deciding or opposing a petition or request for guardianship, custody or visitation solely because the person is blind.

Finally, the Act prohibits LDSSs from taking action against a parent, custodian or guardian solely because that parent, custodian or guardian is blind.<sup>1</sup>

## II. Background

The legislative intent behind the Blind Persons Right to Parent Act is to support the right of blind person(s) to found a family, to decide on the number and spacing of their children, and to retain the custody of their offspring freely and responsibly on an equal basis with others. In addition, the Act supports the right of blind person(s) to challenge the presumption that blindness automatically means parental incompetence and to prohibit judicial decisions and child welfare practices that are based solely on the parent's blindness.

Misconceptions and discrimination based on one's blindness exist in our society today impacting decisions at both the judicial and agency levels. Sadly, this often results in devastating outcomes for parents who are blind. For example, as cited by the Legislature, in 2010, social welfare officials from an agency outside of New York took custody of a 2-day old infant for no other reason than the parents being blind (L. 2021, Ch. 442). No evidence of parental incompetence or neglect were alleged. Instead, it was assumed that the parents could not properly care for their newborn due to their blindness and nothing more. While the legal battle extended into months, the parents were unfairly deprived of their parental rights and caring for their newborn baby (L. 2021, Ch. 442).

To prevent similar tragedies from occurring in New York State, on October 8, 2021, Governor Kathy Hochul signed the Act into law. In essence, the Act prevents courts and LDSSs from making decisions or taking action against a parent or guardian of a minor based *solely* on their blindness. Specifically, the Act amends existing statutes to include new provisions that expressly prohibit such conduct. The Act took effect on January 6, 2022.

The law defines "blind" or "blindness" as "vision that is 20/200 or less in the best corrected eye or vision that subtends an angle of not greater than twenty degrees in the best corrected eye." See Chapter 442 of the Laws of 2021. The Act also amended the DRL to bar the court from deciding a petition for guardianship, custody, visitation or adoption based solely on the petitioner's blindness. The use of the word "solely" is deliberate and purposeful. The Act makes clear that the court can consider the petitioner's blindness "relevant only to the extent that the court finds, based on evidence in the record, that the blindness affects the best interests of the child" who is the subject of the petition. The FCA was similarly amended to reflect the same prohibitions in guardianship, custody, visitation and adoption proceedings under the FCA.

Finally, the Act amended the SSL to prevent LDSSs from denying, deciding or opposing a petition or request for guardianship, custody or visitation solely based on the petitioner's blindness. Again, the Act carves out an exception finding that the petitioner's blindness "shall be considered relevant only to the extent that the blindness affects the best interests of the child" who is the subject of the petition for guardianship, custody or visitation. The SSL was further amended to preclude LDSSs from seeking guardianship or custody of a child solely because the parent or guardian is blind.

People who are blind are very much capable of living independent, full and productive lives, which includes the ability to raise and parent a child. With the enactment of the Blind Persons Right to Parent Act, New York State is taking definitive steps to safeguard those rights and to eliminate the false conceptions and biases about blindness that can negatively influence judicial decisions and child welfare practices.

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<sup>1</sup> It is important to note that this Act in no way alters the legal standard for removal of a child from the home. The standard of removal continues to be "*imminent danger to health or safety*." See SSL 417(1)(a).

### III. Program Implications

There are no immediate or direct program implications.

### IV. Contacts

Any questions concerning this release should be directed to the New York State Commission for the Blind and/or the appropriate regional office, Division of Child Welfare and Community Services, as listed below:

New York State Commission for the Blind – (866) 871-3000 Toll Free  
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