



NEW YORK STATE SENATOR

Velmanette Montgomery

Senator Montgomery's Bills Signed Into Law

VELMANETTE MONTGOMERY February 18, 2019

| ISSUE: **CRIMINAL JUSTICE REFORM, PROTECTING NY HOMEOWNERS, YOUTH, MONTGOMERY LAWS, CHILDREN AND FAMILIES**



Dear Neighbor,

As your representative in the New York State Senate, I have worked to develop legislative solutions to address issues and concerns important to my constituents, our state and our nation.

In response to public health concerns and to address disparities in New York, I have spearheaded the campaign to stem the spread of HIV/AIDS among intravenous drug users through legalized needle exchange programs; and authored laws to prohibit female genital mutilation, and expand the scope of practice and licensure for nurse practitioners in New York State to address the shortage of primary care doctors.

As an advocate for criminal justice reform, I have authored laws to remove barriers by prohibiting licensing agencies from disqualifying someone from licensure as a barber or cosmetologist solely on the basis of a criminal conviction; authored a law that prohibits the shackling of a pregnant woman in prison while being transported to the hospital to deliver her baby.

I am so thankful to my constituents for their suggestions for new legislation. I am proud to sponsor laws that are a direct result of constituent input such as the “The Blair Bill,” a law that expands the protection of guide and service dogs was sponsored on behalf of Eric Blair and “The Community Board Bill” which originated from discussions with Community Board 6 members and was signed into law to allow community boards throughout the five boroughs of New York City to apply for and receive brownfield opportunity area grants.

I welcome your thoughts and ideas for new legislation. Please do not hesitate to contact my office if I can be of any further assistance.

Sincerely,

Senator Velmanette Montgomery

25th Senate District

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slation encourages the placement of youth in foster care with relatives instead of strangers by mak

guardian of the half-sibling; or

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ions for owners of homes that are in default or foreclosure. It also strengthens laws regulating distri

ffer unsolicited assistance with foreclosure or modifications, sometimes claiming that the victim's l

rary ownership of a deed, or engaging in harassment of the homeowner or the homeowner's family

concerning a property transfer.

communities of color. Thieves target our most vulnerable homeowners and snatch generations of wealthers in my district and throughout New York State."

come back. This allows the DA to get into court and have the illegal deed thrown out, and have the home

the four other boroughs combined and deed fraud scams disproportionately impact homeowners of color. "That home is stolen out from under them," said Attorney General James. "Deed theft has become a crisis. It is the time for the court, advancement, and enactment of this important law."

It raises the current income cap amount used in determinations of spousal and child support from \$10,000 to \$15,000 for an order for temporary spousal support. While providing an avenue for temporary spousal support

publish its appeal decisions on a public website within 120 days and provide either a printed or electronic version of its decisions.

responsibility and prosecution of crimes from 16 years old to 18 years old. Essentially differentiating adult crimes from youth crimes who are youth ages 16 and 17 that have committed felony-level offenses.

deprived youth and prevented them from receiving the services they need to rehabilitate themselves and

mothers who are breastfeeding and grants them a two year postponement from having to participate in a

critical time for the development of her child is inhumane. This creates a mechanism where these

delivered to the Governor and awaits his signature. When an individual seeks to use an infant's (Pers

. This bill clarifies areas in the law to provide for all parents and guardians regardless of gender, and
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egislation passed. Special thanks to Community Board 3, Community Board 8, the Brownstoners of

When an application for approval of construction is submitted to DOB. It would also require DOB to

antial and expensive property damage. They are often at a loss on what to do and who to contact to

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brate passage of their new law which would create a personal income tax check-off box for donatic
he Sunset Park High School community.

law which creates a new funding opportunity for our centers by allowing individuals to donate to 1

sive healthcare including vision, dental and mental health services to students at their schools rega

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weeks postpartum. The bill's provisions would apply to all state and local correctional facilities in N
ites prior to or after childbirth or pregnancy outcome.

by medical staff or the inmate giving birth, requires more rigorous training of all correctional staff
ce groups and thousands of people from around the state, including the American Congress of Obsi
NY and the Coalition for Women Prisoners to pass additional protections for pregnant incarcerate

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ela Rosa (D-Manhattan), requires the Department of Corrections and Community Supervision to es

Senator Montgomery said.

g policies and procedures when attempting to visit her father who, up until recently, was been inca

Society, and many other criminal justice advocates, Ashley's Law now requires the Department of C

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and construction of capital facilities assistance to Dancewave of Brooklyn.

mbining rigorous training and mentorship from dance professionals in a nurturing and noncompet

fer affordable rehearsal space, community events, performances, and professional development wo

rts programming and cultural connectedness that strengthens the health and vibrancy of the comr

Senator Montgomery's Adoptee Rights bill (CH. 491 of 2019/ S.3419) establishes a process in which Adult Adoptees can obtain a certified copy of their Birth Certificates.

Removing restrictions and barriers that would allow Adoptees to obtain information about their biological parents to help inform Adoptees of any medical issues such as diseases and or illnesses that may be prevalent within their biological family. Under previous law, adoptees regardless of age, can only receive an amended version of their birth certificates with the names of their respective adoptive parents.

Senator Montgomery said,

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This has been long overdue. We owe our success to the advocacy of thousands of adult adoptees who have fought tirelessly on this issue for over 20 years. The level of support I received for this legislation from adult adoptees all across the state and the nation was astounding. It is important that they have the right to seek answers about their health, their family history and their heritage"

Senator Montgomery's bills (Ch.43 of 2012/ S.6374 & Ch. 535 of 2014/ S.3760) allows for the New York State and Local retirement system to posthumously award Judge Gustin L. Reichbach with additional service credit for his service as a judge with the United Nations administration mission in Kosovo.

Gustin L. Reichbach was a life long resident of Brooklyn and served as a New York State Supreme Court Judge. As Judge Reichbach was battling Pancreatic Cancer, he was optimistic about beating the illness. In that midset, unfortunately the Judge filed for retirement 9 days prior to losing his battle with cancer. Under current law, employees must give at least 15-

days' notice of retirement in order for their pension to be collected or inherited.

Being that Judge Reichbach died a few days prior to meeting this requirement, his family was only entitled a death benefit or a disability pension which would be significantly less than his standard service pension. This legislation corrects this benefits issue by granting the family of Judge Reichbach an additional service credit and backdating his retirement to the day before his death. Ultimately allowing for his widow to obtain a more modest benefit.

Senator Montgomery's bill (Ch. 452 of 2012/S.4855) alters the composition of the New York State Procurement Council to include a member appointed by the Governor that represents the interest of the Agriculture industry. This apointee must represent a not-for-profit New York-based organization that's engaged in the advocacy, marketing and or promotion of New York grown farm and agricultural products.

Previously, the state's Procurement Council consisted of designees from the Office of General Services, the State comptroller, Director of Budget, Chief Diversity Officer and 7 members who are current heads of other large and small state agencies chosen by the Governor. None holding a background in agriculture. This measure is an effort for New York State to commit to the procurement of agricultural products grown and processed in New York.

Senator Montgomery's Bill (Ch. 153 of 2011/S.325) authorizes certified Nurse Practitioners the ability to sign death certificates. Permitting the nearly 13,000 certified nurse practitioners from across the state to sign death certificates ensuring the delivery of appropriate and medically-accurate postmortem care.

Certified Nurse Practitioners are New York State licensed, registered Nurses who have advanced education and are clinically trained to provide primary care, diagnose and treat acute and chronic illnesses and much more. Under law they are able to pronounce death, ascertain the cause of death and provide the medical information required for the death certificate but cannot sign a death certificate. This measure updates antiquated and allows for certified Nurse Practitioners to sign Death Certificates.

Senator Montgomery said,

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Nurse practitioners are often the last caregiver in attendance when a patient dies. If the state deems them qualified to diagnose and treat a person while they are living, there is no logical reason for denying these skilled health care professionals from completing a certificate of death"

Senator Montgomery's bill (Ch. 424 of 2010/S.7980) allows for a candidate who is running in a primary election that ensues in a run-off, the ability to concede prior to the run-off election commencing.

Currently, races for the office of NYC mayor, Comptroller and Public Advocate are set to commence a run-off election between the two highest vote getters, if no respective candidate gets over 40% of the votes.

This measure not only corrects a flawed system but also creates a mechanism for a candidate who is currently in a run-off and wishes to concede, the ability to legally withdraw.

Senator Montgomery's bill (Ch. 423 of 2010/S.6177) requires that employers who already provide funeral or bereavement leave to employees, provide the same for those in same-sex relationships.

As anyone is susceptible to losing a loved one, there are provisions in place to allow for funeral or bereavement leave from work. However, these protections often are not granted to those in same-sex relationships. This measure amends the civil rights law, to allow for individuals who are in same-sex relationships to be granted the same workplace protections that are afforded to their co-workers.

Senator Montgomery's bill (Ch. 36 of 2010/S.4645) requires the Commissioner of the Department of Health to establish a program of influenza education and outreach for parents of children from ages 6 months to 18 years old that are enrolled in licensed and registered daycare programs, nursery schools, pre-kindergarten, kindergarten, school age child care programs, public school or non public school.

In 2007, the Advisory Committee on Immunization Practices (ACIP) recommended that all children aged 6 months old to approximately 5 years old be given the influenza vaccination annually. Especially as each year in the United States, about 5 to 20% of the population are infected with influenza. Young children are especially susceptible to this illness being that they are intermingling with dozens of children in a closed environment. This measure ensures that all parents and guardians of toddlers and school age children are to be informed of the influenza disease and the benefits of getting an annual influenza immunization.

Senator Montgomery's Bill (Ch.342 of 2010/S4388) amends the family court act in relation to trial discharges, allowing for extensions in permanency hearings for successive periods up to 6 months until the respective youth reaches the age of 21, if said youth is over the age of 18, his or her consent is required before discharging. The measure also contains provisions to

allow those who were discharged within the past 24 months and have failed to consent to continued care, the ability to seek family court leave to return voluntarily to foster care. Essentially creating an avenue of assistance for children who are aging out of the foster care system.

This measure would not only provide adolescents with a means of obtaining assistance in making the often-difficult transition into adulthood, but would also provide an essential homelessness-prevention tool for communities and, importantly, for county and municipal social services districts. Enacting this bill empowers youth with much needed access to services and support they otherwise would not be able to get after aging out of the foster care system.

Senator Montgomery's Bill (Ch. 343 of 2010/ S.3868) amends the family court act and the social services law to allow for the reinstatement of a person's parental rights under certain circumstances. Under this measure, with the consent of the petitioner, respondent, and respective child in the original termination proceedings, an individual may apply to have their parental rights reinstated. Under the circumstances that 2 years have passed since the issuance of the order, the petition against the respondent must not have been based on severe and or repeated child abuse, and the child must be under the jurisdiction of the family court and have a permanency goal other than adoption.

Authorizing Family Court the ability to grant the petition to reinstate a respondent's parental right as they deem that they are for the best interest of the respective child. This

would revoke the past disposition of termination and instead leave the fact-finding upon which the original adjudication was based on.

Senator Montgomery's bill (Ch.113 of 2010/ S2233) allows for Foster Care Agencies to delay the petition to terminate the parental rights of incarcerated parents. Under federal law (the Adoption and Safe Family Act or ASFA), these agencies are required to begin termination proceedings against the parents of a respective child after being in the system for at least 15 of the last 22 months. Despite being indisposed, incarcerated parents are to fulfill the same responsibilities as non-incarcerated parents. Which can be very difficult being that an incarcerated mother has limited collect calling and visitation opportunities. As they are incarcerated they are also barred from participating in foster care planning meetings and often are unable to make it to family court proceedings. If the respective parent fails to maintain consistent contact or fails to find a non-foster care home for the child(KinCare), the presiding agency is essentially forced to begin the process of terminating the parental rights.

Considering that the median sentence for Women in New York's prisons is 36 months, incarcerated mothers are at serious and disproportionate risk of losing their parental rights. Because more children of incarcerated mothers are placed in foster homes and agencies than children of incarcerated fathers, ASFA has a disproportionate impact on incarcerated mothers.

This measure makes New York law more responsive to the unique circumstances of families separated by incarceration. Other states' ASFA laws lessen ASFA's negative impact on incarcerated parents and their children: Nebraska and New Mexico exclude incarcerated

parents from ASFA's time frame if the only reason for filing a termination petition is because a parent is incarcerated; Colorado makes an exception if a child has been in foster care for longer than the prescribed 15-month period for circumstances beyond the parent's control, such as incarceration for a reasonable time.

This bill (ch. 469 of 2007/S7723) provides applicants for license to Barber or Practice Cosmetology with criminal records not to be automatically disqualified by the Secretary of State when evaluating the applicant under the term "good moral value." This bill would allow the Secretary of State to review such criminal history information in accordance with article twenty-three-A of the correction law.

This bill gives equal evaluation to those with a criminal record when submitting a license to barber or practice cosmetology. During the application process the applicant must provide grounds for good moral character in which the Secretary of State shall approve or disqualify the applicant. In the past when evaluating an applicant, a background check must be completed. When record of criminal conviction appears it is grounds for an immediate disqualification regardless of what attempts made by the applicant to live a law abiding life after debt to society is paid. This bill allows for further review of application after record of criminal conviction appears in the applicant's background search.

This Bill (ch.386 of 2007/S.557) enables community boards throughout the five boroughs of New York City to apply for and receive brownfield opportunity area grants.

Community boards are local representative bodies with a formal role designated by the City Charter in such matters as land use, determining local budget priorities, and monitoring City service delivery. The NYC community boards were envisioned and established to be discrete municipal planning entities. Despite their important and diverse role in improving the quality of life for all New Yorkers, community boards are not currently eligible to apply for and receive state funding the brown-field opportunity area program.

This bill remedies this by allowing them the ability to apply and receive said funding.

This bill (Ch.178 of 2019/ S6353) increases the services that must be provided for youth and expand the alternatives available to the court in permanency hearings in juvenile cases including:

- notifying non-custodial parents of the scheduling of any hearings in family court,
- continuity of counsel to juveniles that extend past the post dispositional order,
- concrete educational and vocational plans for juveniles once a dispositional order is reached

The Bill (ch. 160 of 1999/ S1982) requires the court to order restitution, in addition to any other sentencing, to a person with a disability, where a person is convicted of harming an animal used to assist a person with a disability in the first and second degree, trained to aid such disabled person.

Animals trained to assist disabled individuals are an essential part of that individual's lifestyle and significantly enhance their quality of life. A loss of such an animal can have a

significant economic impact, and greatly alter their lifestyle. This bill would allow a disabled person to be compensated for such losses.

Chapter 144 of the laws of 2020.

New York currently imposes a variety of different fees and surcharges on people convicted of felonies, misdemeanors, and violations.

This bill ultimately allows for the waiver of mandatory court fees for defendants who were under the age of 21 at the time the crime was committed. In order for the fee to be waived, the court must find that imposing the fee would either be a financial hardship on the defendant or his or her family or financial dependents, or that the fee would impact the defendant's reentry or reintegration. Further, the court could waive the fee if it finds waiver to be in the interests of justice. The bill would not require defendants to have been granted Youthful Offender status in order to be eligible for fee waivers, and waivers would be left in the discretion of the court.

Under current law, the sentencing judge can defer payment of these fees and surcharges if payment would be an undue hardship, but the judge cannot waive payment entirely. If the judge determines that payment would be an undue hardship. However, the fees will be converted into a civil judgment, which could result in wage garnishment and a negative impact on the defendant's credit score if the defendant cannot pay. If the judge does not find that payment will result in a financial hardship, failure to pay can result in up to 15 days in jail.

Chapter 299 of the laws of 2020.

This bill amends the Family Court Act to require video recording of the entirety of interrogations in all juvenile cases, including the provision of Miranda warnings and the waiver, if any, of rights by the juveniles. As in chapter 59 of the Laws of 2017, the measure requires that recording procedures be consistent with regulations to be promulgated by the Division of Criminal Justice Services. The measure applies to interrogations that take place in law enforcement facilities, which, pursuant to Family Court Act § 305.2(4) and section 205.20 of the Uniform Rules of the Family Court, must be in rooms that have been inspected and approved by the Chief Administrator of the Courts for the questioning of youth. All persons in the recording must be identifiable and the speech must be intelligible. As is applicable to other statements by juveniles, the recording would be subject to discovery pursuant to Family Court Act § 331.2. Further, like other factors in juvenile delinquency Huntley hearings, including the presence or absence of parents, location of questioning and the validity of any waiver of rights, the fact and quality of the recording would be among factors comprising the totality of circumstances affecting admissibility of accused juveniles' statements. As provided in chapter 59, failure to record would not, by itself, be a ground for granting a suppression motion.