



NEW YORK STATE SENATOR

Brad Hoylman-Sigal

## Senate Passes Hoylman Bill Protecting Transgender Parents From Discrimination In Family Court Proceedings

BRAD HOYLMAN-SIGAL July 23, 2020

| ISSUE: **LGBTQ RIGHTS, FAMILY COURT, SD 27, SENATOR BRAD HOYLMAN**

NEW YORK—Today, the New York State Senate passed legislation ([S.432A/A.861A](#)) sponsored by Senator Brad Hoylman and Assembly Member Aravella Simotas that would bar judges hearing child custody cases from prohibiting a transgender parent from undergoing gender reassignment surgery, and ensures transgender parents don't face discrimination in Family Court custodial proceedings.

This bill expressly prohibits the court from disallowing a parent's gender reassignment surgery and from considering the sex, sexual orientation, gender identity, and gender expression of the parents when making a determination of a child's best interests in a child custody proceeding.

**Senator Hoylman said:** "It's 2020--no parent in New York should be in jeopardy of losing their custody rights because of their gender identity. Sex, sexual orientation, and gender expression, or identity have no bearing on whether someone is a good parent or not, and with the passage of this law we make it clear that these are inappropriate factors to consider when determining the best interest of a child. I am grateful to Senate Majority Leader Andrea Stewart-Cousins for her continued leadership on behalf of LGBTQ+ New Yorkers, and to advocates across the state for continuing to push forward in the fight for equality."

**Amanda Babine, Executive Director of Equality New York, said:** “There is a dark history of LGBTQI parents losing custody of their children because of their sexual orientation or gender identity. This bill will ensure that no New Yorker will ever face that discrimination again in our courts. We thank Senator Hoylman and Assemblymember Simotas for their leadership on this bill.”

**Cecilia Gentili, Co-Chair of New Pride Agenda, said:** "When we transition, our whole families and close circles transition with us. In the same way discrimination not only touches trans people but those who love us and take part in our lives in different capacities. Creating protections for parents in family court is a great step into finding the sense of equality we all look for as New Yorkers. Thank you to Senator Hoylman for understanding the realities of our community!"

A parent’s gender expression has been used to limit their visitation rights in New York in the past. In *B. v. B.* (585 N.Y.S. 2d 65 [2nd Dep’t 1992]), a father was denied expanded visitation rights because “[he] was not an appropriate role model for the young child as evidenced by [his] history of cross-dressing.” The Family Court decision was affirmed by the Appellate Division and has never been explicitly overturned.

The protection from discrimination on the basis of sex, sexual orientation, and gender identity or expression in Family Court proceedings is consistent with the discrimination protections in Senator Hoylman’s Gender Expression Non-Discrimination Act (GENDA), which was enacted by the Legislature in 2019, but does not extend to judicial proceedings.

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#### RELATED LEGISLATION

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**2019-S432A**

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- Introduced
  - - In Committee Assembly
    - In Committee Senate
  - - On Floor Calendar Assembly
    - On Floor Calendar Senate
  - - Passed Assembly
    - Passed Senate
  - Delivered to Governor
  - Signed By Governor
  -

Prevents a judge from prohibiting a parent from undergoing a gender reassignment when making a determination in a child custody case

January 04, 2019

In Assembly Committee

Sponsored by **Brad Hoylman-Sigal**

Do you support this bill?