



# LGBTQ Youth in Foster Care

October 2017

Vermont Juvenile Court Improvement Program (CIP)

This InfoBulletin is an introduction to some issues regarding LGBTQ youth in foster care.

LGBTQIA = Lesbian, Gay, Bisexual, Transgender, Queer (or Questioning), Intersex, Asexual

## **LGBTQ Youth in Foster Care**

LGBTQ youth are disproportionately represented among victims of bullying, harassment, and family rejection. Sadly, some parents are unable to accept the sexual orientation, gender identity, or gender expression of their children and cruelly mistreat them.<sup>1</sup> One study found that 30% of LGBT youth reported suffering physical violence by family members after coming out.<sup>2</sup> LGBTQ youth may also experience verbal and emotional abuse from their family members.<sup>3</sup> Given the mistreatment at the hands of family caregivers, unsurprisingly, many of these youth find their way into the foster care system.

Although there is a paucity of good data on the issue, given the research that is available, it's clear that LGBTQ youth are over-represented in the foster care system. In a recent study in Los Angeles, it was found that nearly 20% of foster care youth identified as LGBTQ.<sup>4</sup> This is 1.5-2 times the number of youth who are LGBTQ who live outside the child welfare system.

Once in the system, these youth can continue to be traumatized based on their LGBTQ status. They experience a higher number of overall placements and spend more time in group home placements than non-LGBTQ foster youth. One report states that these "disparities are directly related to the non-affirming nature of foster placements for LGBTQ youth and the high level of bias and discrimination LGBTQ youth face."<sup>5</sup>

<sup>1</sup> See Vermont DCF Policy 76 for definitions.

<sup>2</sup> *LGBTQ Youth in the Foster Care System*, The National Center for Lesbian Rights, (June 2006). Accessed at [www.nclrights.org](http://www.nclrights.org).

<sup>3</sup> See discussion of Vermont DCF Policy 76 and examples of this type of behavior below.

<sup>4</sup> *LGBTQ Youth in the Foster Care System*, Human Rights Campaign. Access at: [www.hrc.org/resources/lgbt-youth-in-foster-care-system](http://www.hrc.org/resources/lgbt-youth-in-foster-care-system).

A survey of LGBTQ youth in out-of-home care in New York City found:

- 78% were removed or ran away from their foster placements as a result of hostility toward their sexual orientation or gender identity;
- 100% in group homes reported verbal harassment;
- 70% in group homes reported physical violence.<sup>6</sup>

Some states have laws that directly protect LGBTQ foster care youth from discrimination based on sexual orientation and/or gender identity. States that protect both groups (14 states) include California, Connecticut, Maine, New York and Rhode Island. New Hampshire is one of seven states that protect LGBTQ youth only from sexual orientation discrimination. Neither Vermont nor Massachusetts is on either of these lists.<sup>7</sup>

Federal laws can be used to protect LGBTQ youth in the foster care system. One is the Matthew Shepard Act (formerly the Hate Crimes Bill)<sup>8</sup> which was recently expanded to include crimes motivated by a victim's actual or perceived gender, sexual orientation, gender identity, or disability. There is also case law that might be helpful in representing LGBT youth in foster care. For example, in a case out of Hawaii, the court found that isolation of LGBTQ youth in a detention center constituted abuse.<sup>9</sup>

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act of 2007. §1105, 10<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2009).

<sup>9</sup> See *R.G., et al, v. Koller*, 415 F. Supp. 2d 1129 (D. Hawaii 2006).

### **Vermont DCF Policy**

Vermont DCF has a comprehensive policy, [Policy 76](#), which addresses the needs of LGBTQ youth who come to their attention. The policy is proactive in outlining ways to assist families in coming to terms with having an LGBTQ child. If the family is not overtly rejecting a child, but they are not as supportive as the child needs them to be, DCF instructs its workers to make appropriate referrals to agencies such as Outright Vermont.<sup>10</sup> Policy 76 notes the following types of family behaviors directed toward LGBTQ youth that signal the need for additional support and planning:

- any form of physical abuse or violence;
- verbal harassment or name calling;
- excluding youth from family activities;
- blaming the child when they are discriminated against because of their identity;
- using religious beliefs to instill in them a fear of being punished;
- blocking access to friends, events and resources.

It's important to keep in mind, whatever your role in the child welfare system, that an LGBT young person is 24% more likely to be a happy adult if a parent is "a little accepting" versus "not accepting at all".<sup>11</sup> On the other hand when family members reject their LGBTQ children, these youth are more than 8 times as likely to commit suicide and nearly 6 times as likely to report high levels of depression.<sup>12</sup> Social workers, GALs and others involved in the system should advocate for mental health and family therapy services that support acceptance when continuing a relationship with a parent is deemed appropriate.<sup>13</sup> Note that under Policy 76, "waiting to address the medical needs of transgender children and youth is not a neutral option."

In Vermont, if a child needs to be placed out-of-home, under DCF Policy 76 the child is to be placed in a LGBTQ-affirming out-of-home placement. Youth who identify as transgender are to be placed in a home or location that is consistent with their needs and preferences, unless there is a safety reason that dictates otherwise.

### **Other DCF Initiatives**

A Vermont consortium which includes DCF, UVM, Outright Vermont and the Youth Development Program of Washington County Youth Services Bureau was

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<sup>10</sup> <http://www.outrightvt.org>

<sup>11</sup> Garry Bevel, *Representing Transgender Youth: Learning from Mae's Journey*, ABA Child Law Practice Vol. 29 No. 11. ([www.childlawpractice.org](http://www.childlawpractice.org))

recently awarded a grant for the purpose of training foster parents on issues specific to LGBTQ foster care youth. Through these trainings, the hope is to create a list of families who are willing and prepared to be LGBTQ-affirming foster parents.

Vermont also has a Commissioner-designated committee to guide DCF staff when confronted with complex issues pertaining to LGBTQ youth, such as medical treatment decisions regarding puberty blockers/suspenders; cross-gender hormones; fertility preservation; and gender affirmation surgery or other medical procedures.<sup>14</sup> The Committee consults on cases and provides guidance and referrals. For example, if a youth in custody who identifies as transgender wanted to begin the transition process, the Committee might refer the youth to the Transgender Youth Program (Trans Clinic) at UVM in Burlington. Since its inception in January 2017, the committee has convened approximately 15 times and all consultations have been for trans youth. Reasons for consultation have included: a need for community supports or family acceptance, placement decisions, risk of suicide, guidance on affidavit language, hormone treatments, gender affirmation surgery, and legal name changes. An overarching theme in all consultations has been the young person's need for an accepting and supportive network of both adults and peers within their communities.

Vermont is taking important steps to recognize and address the needs of LGBTQ youth who become involved with the child welfare system. The foster parent trainings and full implementation of DCF Policy 76 should help create a system that is more responsive to, and respectful of, this population of young people.

### **ABA (American Bar Association) Resources**

The ABA Center on Children and the Law's *Opening Doors* project provides online resources for legal and child welfare professionals which is intended to improve outcomes for LGBTQ young people in foster care. [Click here](#) for online resources, including research and a guide for judges and lawyers.

<sup>12</sup> *Id.* Note that some transgender youth meet the criteria for Gender Identity Disorder, a disorder recognized by the DSM-IV-TR.

<sup>13</sup> *Id.*