



TESTIMONY OF MARY L. BONAUTO, ESQ., OF PORTLAND,

LD 699 – OUGHT TO PASS

JOINT STANDING COMMITTEE ON HEALTH AND HUMAN SERVICES

March 16, 2021

Senator Claxton, Representative Meyer, and Honorable Members of the Committee on Health and Human Services: Good Afternoon. My name is Mary Bonauto and I live in Portland.

I am an attorney with GLBTQ Legal Advocates & Defenders (GLAD), a legal rights organization that works in Maine and New England, and sometimes beyond to create a just society free of discrimination based on gender identity and expression, HIV status, and sexual orientation.¹ GLAD supports LD 699, *An Act to Create a Kinship Care Navigator Program within the Department of Health and Human Services*. I am here today on behalf of GLAD as well as the ACLU of Maine and Equality Maine.

This bill would require the Department of Health and Human Services (DHHS) to “provide resources and information” to a child’s relatives or persons with a close relationship to a child who are already caring for a child or seek to do so, whether temporarily or permanently, and whether or not the child is in state custody. Ideally, the program would also provide the other services identified in subsection 3 of the bill, such as identifying and coordinating available resources, developing collaborative relationships among the many state agencies and private organizations serving persons who provide such care, and providing referrals for resources and services to caregivers.

LD 699 meets an urgent need for children who need care by providing the information to facilitate “kinship providers” stepping up for them when their parents are unable to do so, and in some instances, as an alternative to placement with an unknown foster family. The current systems are not transparently explained and are often byzantine experiences to navigate, and therefore cannot meet the compelling goal of connecting children with familiar and familial caregivers. Establishing this program would aim to get everyone on the same page, democratize access to newly organized information, and take an important step to improving the lives of a significant number of children.

When children are in the custody of DHHS, our law clearly prefers to place children with an adult relative when possible, even as the State attempts to facilitate parental reunification.² Further, the child welfare statutes compel the department to “give preference to an adult relative over a nonrelative caregiver when determining placement for a child, as long as the adult relative

¹ Throughout this comment we use the term “LGBTQ+,” but we acknowledge that this term is not all-encompassing with regards to the communities that the bill directly impacts. We seek to include all community members, regardless of label.

² ME. REV. STAT. ANN. tit. 22, at § 4003 (3), (3-A).



meets all relevant state child protection standards.”³ A kinship navigator program would benefit the child by clarifying how the department and caregivers can connect in that specific system as well. Even as things stand now, DHHS is required by statute to make kinship care policies available in writing to the public,⁴ and the DHHS website advertises a “Kinship Care Policy,” but no such policy appears to be available as of the date of this writing.⁵

More specifically for DHHS-involved children, a navigator program would be critical for the overwhelming majority of families who need information about available options such as temporary, emergency, and permanency guardianship. Care providers need to understand what it means that a child may become subject to a protection order, in which a court can order a litany of actions, including determinations of custody, removal or emancipation of a child, visitations, as well as departmental supervision.⁶ Further, DHHS is tasked with making reasonable efforts to finalize a “permanency plan” that determines the ultimate care and custody of a DHHS-involved child, including the possible appointment of a permanency guardian (someone who has a close emotional bond with the children, typically relatives).⁷ Finally, Maine law requires the establishment of a guardianship subsidy program and the use of federal funds to assist children placed in permanency guardianships.⁸ A kinship navigator program would help families of children involved in the DHHS system to understand these different pathways of custody and the resources that are available for impacted youth.

GLAD has a deep interest in ensuring that *all* children and families involved with DHHS and the foster system receive timely and targeted care and assistance both to promote child welfare and to support families. Statutes involving the child welfare system inevitably affect LGBTQ+ youth as national research shows that LGBTQ+ youth are disproportionately involved in the foster care / child welfare system across the country. To our knowledge, data specific to LGBTQ+ young people and their families is not collected in Maine, but a recent study published in *Pediatrics*, the flagship journal of the American Academy of Pediatrics, concluded that the proportion of LGBTQ+ youth in foster care and unstable housing is “2.3 to 2.7 times larger than would be expected from estimates of LGBTQ+ youth in nationally representative adolescent samples.”⁹ Frequently, LGBTQ+ youth are forced into the system, be it out of fear, necessity, or lack of

³ ME. REV. STAT. ANN. tit. 22, at § 4005-G.

⁴ ME. REV. STAT. ANN. tit. 22, at § 4010-B.3.

⁵ See ME. CHILD & FAM. SERV., *Child Welfare* (2020), <https://www.maine.gov/dhhs/ocfs/cw/policy.shtml>.

⁶ ME. REV. STAT. ANN. tit. 22, § 4036.1.

⁷ *Id.* at §§ 4036-B.5, §4038-C.

⁸ *Id.* at § 4038-D.

⁹ The study found that <1% of its sample was involved in foster care, but 30.4% of those youth reported an LGBTQ identity (as compared to 11.2% reporting such an identity in a national probability-based sample). See Laura Baams et al., *LGBTQ Youth in Unstable Housing and Foster Care*, 143 PEDIATRICS 1, 4 (Mar. 2019), available at <https://www.childrensrights.org/wp-content/uploads/2019/04/2019.02.12-LGBTQ-Youth-in-Unstable-Housing-and-Foster-Care.pdf>.



choice: a study of youth in out-of-care home settings found that 42% of LGBTQ+ respondents had been either removed or ejected from their homes over conflict related to their identity.¹⁰

Further, the same *Pediatrics* report states that LGBTQ+ young people are at a heightened risk for harm while they interact with this system – including mistreatment, violence, and hospitalization, and are at heightened risk for homelessness.¹¹ GLAD believes that it is imperative to provide as many resources and tools to care providers as possible to protect young people and promote their well-being.

Like other people, LGBTQ+ youth also have multiple identities, and therefore experience multiple forms of discrimination while involved in foster care.¹² The Williams Institute, a thinktank at UCLA School of Law, among others, has found that LGBTQ+ youth of color are overrepresented in both the child welfare and juvenile justice systems.¹³ These youth stay longer in child welfare and juvenile justice systems, and “are at elevated risk of discrimination and violence once system-involved compared to other groups of youth.”¹⁴

The only detailed data on LGBTQ+ youth in Maine comes from the Maine Integrated Youth Health Survey, which is administered every two years to elementary, middle school and

¹⁰ Shannon Wilber et al., *CWLA Best Practice Guidelines*, CHILD WELFARE LEAGUE OF AM. (2006). See also J.A. Puckett et al., “Parental Rejection Following Sexual Orientation Disclosure: Impact on Internalized Homophobia, Social Support, and Mental Health,” *LGBTQ Health* 2, no. 3, at 265-69 (Sept. 2015), available at <https://doi.org/10.1089/lgbt.2013.0024>; see also K. Martinez, et al., *Childhood Familial Victimization: An Exploration of Gender and Sexual Identity Using the Scale of Negative Family Interactions*, J. of Interpersonal Violence (Nov. 8, 2017), available at <https://doi.org/10.1177/0886260517739289>.

¹¹ See Baams, *supra* note 9, at 2. One recent study suggests that LGBTQ+ youth comprise up to 40% of homeless youth. See True Colors United, *LGBTQ Youth are 120% More Likely to Experience Homelessness* (2021), <https://truecolorsunited.org/our-issue/>.

¹² HUM. RIGHTS CAMPAIGN, *LGBTQ Youth In The Foster Care System* (last accessed Mar. 12, 2021), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/assets/resources/HRC-YouthFosterCare-IssueBrief-FINAL.pdf?mtime=20200713134001&focal=none>.

¹³ Kerith J. Conron and Bianca D.M. Wilson, *LGBTQ Youth of Color Impacted By The Child Welfare And Juveniles Justice Systems*, THE WILLIAMS INST. 4 (June 2019). See also, Bianca D.M. Wilson & Angeliki A. Kastanis, *Sexual and gender minority disproportionality and disparities in child welfare: A population-based study*, 58 CHILD. & YOUTH SERV. REV. 11, 15 (2015) (finding that “majority of youth within the LGBTQ foster youth population were youth of color and over half were girls, indicating that many of them likely face multiple forms of discrimination and disparities”); Angela Irvine & Aisha Canfield, *The Overrepresentation of Lesbian, Gay, Bisexual, Questioning, Gender Nonconforming and Transgender Youth Within the Child Welfare to Juvenile Justice Crossover Population*, 24 J. OF GENDER, SOC. POL’Y & L. 243, 245, 248 (2016) (noting that LGBT youth are three times more likely to have been removed from their home, and that although the proportion of straight and LGBQ/GNCT (lesbian, gay, bisexual, questioning / gender nonconforming and transgender) youth of color is the same in the juvenile justice system, the fact that individuals of color are overrepresented means there is a larger number of LGBWQ/GNCT youth of color in the system than white LGBQ/GNCT youth).

¹⁴ *Id.* at 5. For example, in a study of LGBTQ+ youth in Los Angeles, the Williams Institute discovered that the majority of youth within the LGBTQ+ foster youth population were youth of color, “indicating that many of them likely face both racial and anti-LGBTQ discrimination.” THE WILLIAMS INST., *Sexual And Gender Minority Youth In Foster Care: Assessing Disproportionality And Disparities In Los Angeles*, 40 (Aug. 2014).



high school students. Data from the 2019 survey demonstrate that LGBTQ+ young people experience less support and increased violence and discrimination in comparison to their non-LGBTQ+ peers.¹⁵ The survey, a collaborative effort between DHHS and the Maine Department of Education, determined that LGBTQ+ students in Maine (1) experience more violence and discrimination at school, at home, and in the community;¹⁶ (2) are less likely to have support from adults and more likely to experience violence;¹⁷ and (3) face many challenges and fewer supports, leading to significantly worse mental health outcomes.¹⁸ LGBTQ+ youth, both more likely to experience violence and discrimination and more likely to be engaged with the foster care system, and their families clearly need the additional supports that LD 699 offers.

Thank you for your consideration, and I hope that you will unanimously vote ought to pass on LD 699 and provide additional tools for Maine minors and families to access vital services and understand the full panoply of options for kinship.

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Signing on in support:
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Equality Maine



¹⁵ See ME. DEP'T OF HEALTH AND HUM. SERV., ME. DEP'T OF EDUC., *LGBT Student Health: Maine Integrated Youth Health Survey* (May 2020), <http://westbrookpartnersforprevention.org/wp-content/uploads/2020/12/2019MIYHSLGBTInfographic.pdf>.

¹⁶ For example, 37% of LGBT students reported bullying at school in the past twelve months, as compared to 21% of the non-LGBT population. *Id.*

¹⁷ 38% of LGBT respondents reported that violence in their home, or the threat of it, made them consider leaving home, in comparison to 18% of non-LGBT respondents, and were twice as likely to have four or more adverse childhood experiences (44% vs. 18% of the non-LGBT population). *Id.*

¹⁸ 41% of LGBT respondents had seriously considered suicide in the past year, in comparison to 12% of the non-LGBT population, and were more than twice as likely to feel sad or hopeless for two or more weeks in the past year. *Id.*