

May 11, 2020

Representative Aaron Michlewitz, Chair
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Representative Denise Garlick, Vice Chair
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Massachusetts House of Representatives
House Committee on Ways and Means
24 Beacon Street
Room 243
Boston, MA 02133

Via Email

Re: H. 4163 - An Act Relative to DCF Legislative Reporting Reform

Dear Chair Michlewitz and Vice Chair Garlick:

Thank you for your service, particularly during the difficult times of COVID-19.

We write regarding H. 4163 and proposed amendments to ensure that DCF collects and reports data regarding sexual orientation and gender identity, which amendments are particularly urgent in light of recent Trump Administration action. On Friday, May 8, the federal Department of Health and Human Services announced that they will remove the sexual orientation data elements from required AFCARS reporting.¹ This is yet another attempt by the Trump Administration to render invisible the lives of LGBTQ people. This action is particularly egregious because it indicates that the federal government has no desire to understand and meet the needs of some of the most vulnerable youth in our child welfare systems -- LGBTQ youth.

Nationally, LGBTQ youth, and particularly LGBTQ youth of color, are overrepresented in child welfare and juvenile justice systems. Research shows that approximately 8% of youth identify as LGBTQ, but as much as 30% of youth formerly involved in child welfare systems identify as LGBTQ.² This is due to many factors, including family rejection.³ In Massachusetts, 11.3% of high school students identify as LGBTQ, and of those youth, 13.5% identify as Latinx, 15.2% identify as Multiracial, 8.8% identify as White, 6.2% identify as Black, and 8.7% identify as Asian.⁴ The failure to address the needs of child welfare-involved LGBTQ youth often leads to

¹ <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-09817.pdf>

² Alan J. Dettlaff & Micki Washburn, *Outcomes of Sexual Minority Youth in Child Welfare: Prevalence, Risk, and Outcomes, A Guide for Child Welfare Professionals* (2018).

³ *Id.* at 12.

⁴ Mass. Dep't of Elementary and Secondary Educ. & Dep't of Pub. Health, *Health and Risk Behaviors of Massachusetts Youth, 2017 (2019)*.

deeper system involvement. National research shows that LGBTQ youth compose 15% of those in the juvenile justice system.⁵

In Massachusetts, despite years of stated commitment to data collection and having the technical capacity to do so, DCF is not yet systematically collecting or reporting essential demographic data on sexual orientation and gender identity. Although DCF data collection on these elements was supposed to begin in 2016, DCF recently stated that collection only began in the latter months of 2019 and that the data is not yet available for reporting. DCF's (December) 2019 Annual Report contained no demographic data on sexual orientation or gender identity, and it did not once mention LGBTQ youth. In a February meeting with Commissioner Spears and Secretary Sudders regarding LGBTQ youth, we learned that the sexual orientation and gender identity data that DCF is collecting is "sketchy," that the collection of this demographic data is not mandatory, and that there is no solid data on how many LGBTQ youth are in care or custody. We also learned that workers have largely not been trained on how to have culturally competent conversations with youth regarding sexual orientation and gender identity or how to collect this data. Despite DCF's clear commitment to collecting and reporting sexual orientation and gender identity data, which we appreciate, the status of data collection efforts is very concerning to us.

It is critical that H. 4163, and/or any related legislation regarding DCF data reporting and accountability, require DCF to collect demographic data on sexual orientation and gender identity. Without such a requirement, we are concerned that DCF will continue to lag on data collection for this vulnerable population. Further, since DCF's data collection is organized to meet federal child welfare reporting, action by the Legislature is particularly important now in light of the federal government's reversal in course on federal data reporting requirements. Data collection on sexual orientation and gender identity is critical to understanding the numbers, geography, and needs of these vulnerable youth. Without an understanding of who, and where, these vulnerable young people are, we are not doing everything we must to protect and support them. **Massachusetts has the power and obligation to act.**

We thank Representative Khan for working with us to ensure that H. 4163 includes amendments that ensure data collection on the basis of sexual orientation and gender identity. We attach a working copy of H. 4163 with suggested amendments to include sexual orientation and gender identity data elements.

We respectfully request that your committee report out H. 4163 favorably with amendments that require DCF's demographic data collection to include sexual orientation and gender identity.

⁵ Angela Irvine, "*We've Had Three of Them*": *Addressing the Invisibility of Lesbian, Gay, Bisexual, and Gender Non-Conforming Youths in the Juvenile Justice System*, 19(3) *Columbia Journal of Gender and Law* 675, 696 (2010).

Thank you for ensuring that Massachusetts acts to understand and meet the needs of LGBTQ youth in our child welfare system. Please do not hesitate to contact any of us for further information or with questions.

Sincerely yours,

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Cc: Representative Kay Khan
Senator Sonia Chang-Diaz
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