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SENATE RESOLUTION

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WHEREAS, The Foster Children's Bill of Rights Act (20 ILCS 521/1) gives every child and adult in the care of the Department of Children and Family Services the right: "[t]o have caregivers and child welfare personnel who have received instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care[; ...] [t]o have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived...sexual orientation, [or] gender identity [; ...] [t]o receive medical..., and mental health services[; ... and] [t]o receive a copy of [the Foster Children Bill of Rights] from and have it fully explained by the Department of Children and Family Services when the child or adult is placed in the care of the Department of Children and Family Services"; and

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WHEREAS, CFS form 496-1 (Revised July 2018), the Illinois Foster Child and Youth Bill of Rights, further provides specific requirements for when the Department of Children and Family Services must provide children and youth with a copy of these Rights and states that children and youth have the right to "be placed in out-of-home care according to [the child or

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1 youth's] gender identity, regardless of the gender or sex
2 listed in their court or child welfare records[; and] be
3 provided appropriate clothing that fits and corresponds to [the
4 child or youth's] gender identity"; and

5 WHEREAS, The Family First Prevention and Services Act of
6 the Bipartisan Budget Act of 2018 (Public Law No. 115-123)
7 became federal law on February 9, 2018, steering the child
8 welfare system towards much needed reform and re-calibration of
9 policies to: "provide enhanced support to children and families
10 and prevent foster care placements" and, if safety necessitates
11 removal, provides children with loving foster homes rather than
12 congregate care settings; address disparities known to child
13 welfare experts, such as the overrepresentation of youth who
14 are lesbian, gay, bisexual, transgender, or questioning in the
15 child welfare system overall and the system overreliance on
16 congregate care settings for these youth, which typically yield
17 worse outcomes for them compared to their cisgender and
18 heterosexual peers; recruit, retain, and support homes that are
19 affirming of a youth-in-care's sexual orientations and gender
20 identity and establish a system of accountability if homes are
21 not providing affirming care; and, protect Lesbian, Gay,
22 Bisexual, Transgender and Questioning (LGBTQ) youth from being
23 unnecessarily diagnosed to meet clinical criteria required for
24 residential care or from facing increased risk of involvement
25 in the justice system as a result of the Family First

1 Prevention and Services Act implementation; and

2 WHEREAS, The Children and Family Services Act (20 ILCS
3 505/5.25) requires the Department of Children and Family
4 Services to provide every child in its care with "the necessary
5 behavioral health services", including "behavioral health
6 services from an outside provider when those services are
7 necessary to meet the child's needs and the child wishes to
8 receive them"; and

9 WHEREAS, The Department of Children and Family Services is
10 required by the Children and Family Services Act (20 ILCS
11 505/7) to place children in its care in safe and adequate
12 placements consistent with each child's health, safety, and
13 best interests; and

14 WHEREAS, The Department of Children and Family Services has
15 adopted rules, entitled "Placement Selection Criteria", (89
16 Ill. Adm. Code Part 301.60) that provide that "all placement
17 decisions will be made consistent with the safety, best
18 interests and special needs of the child" and that
19 consideration shall be given to "the least restrictive setting
20 appropriate for the child which most closely approximates a
21 family"; and

22 WHEREAS, The Department of Children and Family Services is

1 the party to a federal court consent decree (B.H. et al., 88 C
2 5599, N.D. ILL) that provides that Children shall: be free from
3 foreseeable and preventable harm[;]...receive at least minimally
4 adequate healthcare [including] mental health care adequate to
5 address their serious mental health needs[;] be free from
6 unreasonable and unnecessary intrusions by DCFS upon their
7 emotional and psychological well being" and that the Department
8 shall maintain a system which provides: "that children will be
9 timely and stably placed in safe and appropriate living
10 arrangements[;]...for the prompt identification of the medical,
11 mental health and developmental needs of children[;] timely
12 access to adequate medical, mental and developmental
13 services[; and] that children receive adequate services to
14 assist in the transition to adulthood"; and

15 WHEREAS, The Illinois Human Rights Act (755 ILCS 5)
16 protects against discrimination on the basis of sexual
17 orientation and gender identity in places of public
18 accommodation, including the Department of Children and Family
19 Services and its contracted providers; and

20 WHEREAS, People who are Lesbian, Gay, Bisexual,
21 Transgender, Questioning or Queer are subjected to violence and
22 discrimination because of who they are or who they love; and

23 WHEREAS, Gender dysphoria is a serious and internationally

1 recognized medical condition that requires immediate medical
2 attention from a medical professional experienced in its
3 treatment; and

4 WHEREAS, On May 11, 2017 the Department of Children and
5 Family Services updated Appendix K to Procedures 302 "Support
6 and Well-Being of Lesbian, Gay, Bisexual, Transgender and
7 Questioning (LGBTQ) Children and Youth" (P.T. 2017.04) which,
8 among other things: (1) recognizes that LGBTQ children/youth
9 are at higher risk than their heterosexual cisgender
10 counterparts for emotional and physical abuse from family
11 members and/or peers, failed out-of-home placements,
12 homelessness, emotional/physical victimization, and/or
13 institutional neglect or abuse; (2) states DCFS' policy is to
14 maintain and promote safe and affirming environments for LGBTQ
15 children and youth; (3) applies to anybody in contact with
16 children/youth in DCFS care (e.g., DCFS staff, employees of
17 contractors, volunteers, foster parents, etc.); (4) prohibits
18 caregivers from engaging in any discrimination against or
19 mistreatment of LGBTQ children and youth; (5) requires
20 caregivers to affirm and support an LGBTQ child/youth's sexual
21 orientation and gender identity, including by: (a) using the
22 child/youth's preferred name and gender pronouns (including
23 gender-neutral pronouns, such as "they/them"), including in
24 written documents and records when the youth agrees; (b)
25 respecting the child/youth's choice of clothes, make-up,

1 hairstyle, friends, and activities; and (c) providing support
2 to LGBTQ youth who are experiencing problems related to their
3 sexual orientation or gender identity in the community,
4 including schools where transgender youth may need help
5 requesting permission to use gendered facilities such as
6 restrooms or locker rooms; (6) prohibits placing a child or
7 youth in congregate care because of their sexual orientation or
8 gender identity; (7) prohibits placing LGBTQ youth somewhere
9 they will not be affirmed and requires immediate corrective
10 action if a youth is not being affirmed; (8) provides that
11 children/youth should generally be housed based on their gender
12 identity, rather than their birth assigned gender, and a
13 child/youth's perception of where they should be placed and
14 would feel safest should be the primary factor in informing
15 housing decisions; (9) states that LGBTQ children and youth
16 have the right to receive LGBTQ competent medical care and
17 sexual health education, including continuation of hormone
18 therapy for transgender youth who were receiving it before
19 entering DCFS care, and that youth who request hormone therapy
20 while in DCFS care (who were not receiving such care prior to
21 entering DCFS custody) should be referred to medical
22 professionals who are recognized as medically competent in the
23 care of transgender youth; (10) requires caregivers to respect
24 the privacy of a child/youth's sexual orientation and gender
25 identity and not disclose this information without the
26 child/youth's permission; and (11) mandates annual training in

1 LGBTQ competent care for every person in contact with
2 children/youth in DCFS care; and

3 WHEREAS, There has been little to no public information
4 offered about the Department of Children and Family Services'
5 implementation of Appendix K to Procedure 302, or whether there
6 is any oversight process to ensure accountability and
7 compliance with the requirements of Appendix K to Procedure 302
8 so that the needs of youth identifying as Lesbian, Gay,
9 Bisexual, Transgender and Questioning (LGBTQ) are being
10 addressed systematically by the Department of Children and
11 Family Services and its contractors, or whether any efforts are
12 having an impact on disparate outcomes, division of duties
13 during staffing vacancies for allocated positions, or whether
14 State resources are being sufficiently allocated and spent to
15 properly implement Appendix K; and

16 WHEREAS, The General Assembly requires reliable
17 information to guide funding decisions, perform its oversight
18 capacity, and make sound legislative and administrative
19 recommendations; therefore, be it

20 RESOLVED, BY THE SENATE OF THE ONE HUNDRED FIRST GENERAL
21 ASSEMBLY OF THE STATE OF ILLINOIS, that the Auditor General is
22 directed to conduct a performance audit of the Department of
23 Children and Family Services' compliance with its obligations

1 to protect and affirm children and youth who are lesbian, gay,
2 bisexual, transgender, questioning or queer; and be it further;

3 RESOLVED, That the audit shall include, but not be limited
4 to, examining the operations and management of the Department
5 of Children and Family Services and its contractors to perform
6 its duties in accordance with the Foster Children's Bill of
7 Rights Act (20 ILCS 521/1) and Appendix K to Procedures 302
8 "Support and Well-Being of Lesbian, Gay, Bisexual, Transgender
9 and Questioning (LGBTQ) Children and Youth" (P.T. 2017.04) as
10 follows:

11 (1)The Department of Children and Family Services'
12 implementation of and adherence to Appendix K to Procedure
13 302 and the Foster Children's Bill of Rights;

14 (2)The Department of Children and Family Services'
15 contractors' implementation of and adherence to Appendix K
16 of Procedure 302 and the Foster Children's Bill of Rights;

17 (3)How and with what frequency the Department of
18 Children and Family Services and its contractors'
19 employees are trained on sexual orientation, gender
20 identity, and the requirements of Appendix K, and whether
21 the training is sufficient to demonstrate appropriate
22 application to fieldwork;

23 (4)How employee and contract oversight ensure
24 accountability and corrective actions;

25 (5)The method by which the Department of Children and

1 Family Services assesses, monitors, and acts to make
2 certain its contracted providers have adopted
3 LGBTQ-affirming, nondiscrimination policies that are at
4 least as extensive as Appendix K, including policies
5 providing for employee discipline up to and including
6 termination and for conduct in violation of the
7 non-discrimination policy;

8 (6)The methods by which information about youth
9 gender-identity is sought, the format and locations in
10 which this information is maintained, and the practices
11 utilized for privacy protections;

12 (7)Actions taken by the Department of Children and
13 Family Services and its contractors in licensing to require
14 foster parents' commitment to provide care and homes that
15 are affirming of all children and youth, regardless of
16 sexual orientation or gender identity;

17 (8)The process by which the Department of Children and
18 Family Services ensures that children or youth who identify
19 as lesbian, gay, bisexual, transgender, questioning or
20 queer are matched with placements that are affirming of
21 those youths' sexual orientation and gender identity; and

22 (9)The current gap in placement and service capacity to
23 meet needs and efforts made to recruit homes affirming of
24 lesbian, gay, bisexual, transgender and questioning or
25 queer children and youth; and be it further

1 RESOLVED, That the audit include, but not be limited to,
2 the following determinations as they pertain to children (up to
3 the age of 21) in the care of the Department of Children and
4 Family Services in calendar years 2017 and 2018:

5 (1) Whether youth in care are made aware of their rights
6 and know how to report violations of these rights, the
7 experiences of youth who have reported violations,
8 recommendations made by youth in care to improve their
9 ability to meaningfully exercise their rights, and how the
10 Department of Children and Family Services incorporates
11 such recommendations in policy development;

12 (2) The number of youth in care identifying as (a)
13 lesbian, (b) gay, (c) bisexual, (d) transgender, (e)
14 questioning, (f) gender non-conforming, (g) another
15 minority sexual orientation or gender identity, or (g) more
16 than one of the aforementioned identifications during the
17 review period;

18 (3) For each youth in subsection (2), the length of stay
19 in out-of-home care, case permanency goals, frequency of
20 sibling visitation, as applicable;

21 (4) For each youth in subsection (2), the number, type,
22 and duration of each placement designated foster home,
23 group home, residential treatment center, detention or
24 correctional setting, psychiatric hospital, transitional
25 living program, or shelter home; whether and how the youth
26 in care participated in placement planning and

1 determination; whether and how gender identity was
2 considered for placement selection and whether the youth
3 was placed according to their gender identity (as opposed
4 to their sex assigned at birth as reflected on their birth
5 certificate); reasons for placement disruptions, if
6 applicable;

7 (5) For each youth in subsection (2), the number of each
8 incident categorized as running away, contact with police
9 or the justice system, crisis hospitalization,
10 hospitalization beyond medical necessity, reported victim
11 of assault, school-related disciplinary infractions,
12 school-related bullying or harassment, removal from a
13 placement at the request of a provider or caregiver,
14 removal from a placement at the request of the youth,
15 subject of abuse or neglect allegations while in
16 out-of-home care, detained in a correctional setting
17 beyond release due to lack of identified placement;

18 (6) Whether the youth in subsection (2) were provided
19 opportunities to engage in normalcy activities (e.g.,
20 participation in activities typical of their peer and age
21 group) consistent with their gender identity;

22 (7) Whether the data findings for subsections (1), (3),
23 (4), (5), (6) differ from that of the general population of
24 youth in care or whether the data differs based on the
25 geographic placement of the youth in care;

26 (8) The number of providers designated as clinically

1 appropriate to provide housing or services to youth who
2 identify as lesbian, gay, bisexual, transgender, or
3 questioning available to youth in care and the number of
4 youth utilizing those providers for services or supports;

5 (9)The number of transgender youth in care who have
6 requested (whether formally or informally)
7 transition-related hormone therapy or consultation
8 services regarding this treatment; the number of youth the
9 Department of Children and Family Services did not refer
10 for treatment, the qualifications of staff making the
11 determination, and justification; the number of youth who
12 received their requested care and whether this was
13 delivered by a qualified provider; and the length of time
14 from the youth's request to a service referral being made
15 to referral resulting in service delivery; and information
16 regarding barriers to service access, bureaucratic
17 hierarchy and hurdles, and efforts made to address these
18 issues; and

19 (10)The number of youth in care in need of treatment
20 for gender dysphoria and how this need is identified; the
21 number of youth the Department of Children and Family
22 Services did not refer for treatment, the qualifications of
23 staff making the determination, and justification; the
24 number of youth receiving this care and whether it was
25 provided by a qualified clinician; the length of time from
26 need being identified to service referral being made to

1 referral resulting in service delivery; and information
2 regarding barriers to service access, bureaucratic
3 hierarchy and hurdles, and efforts made to address these
4 issues; and be it further

5 RESOLVED, That the Department of Children and Family
6 Services shall cooperate fully and promptly with the Auditor
7 General's Office in conducting this audit; and be it further

8 RESOLVED, That the Auditor General commence this audit as
9 soon as possible and distribute the report upon completion in
10 accordance with Section 3-14 of the Illinois State Auditing
11 Act.