

PRACTICE TIPS FOR JUDGES: JUVENILE DETENTION HEARINGS AND PLACEMENT ORDERS

LGBT Youth in the Juvenile Justice System American Judges Association 51st Annual Conference

Practice Tips for Judges: Detention Hearings for LGBT Youth

To ensure that you have sufficient and accurate information to make a detention determination for a youth who openly identifies as LGBT, judges should consider the following questions:

- Does the youth self-identify as LGBT? If so, who knows the youth is LGBT?
- Can you discuss LGBT issues openly in the courtroom because all those present already know the youth is LGBT? If not, what can you do to ensure the youth is not “outed” as a result of the detention hearing?
- With whom does the LGBT youth live? Does this person know the youth is LGBTQ? Is he or she supportive?
- If a parent or custodian is not present, why not?
- If parent or custodian is present, but won't take the youth home due to conflict over the youth's LGBT identity, can the family be provided services to address this? Are there other close relatives or significant individuals who may be able to provide a temporary place for the youth to stay? If not, is there another non-secure placement available?
- Does the LGBT youth have access to a defense attorney who is familiar with LGBT issues and able to zealously advocate for him or her?
- How is the youth doing in school? If the youth has a poor attendance record, is the youth facing harassment or abuse at school related to his or her actual or perceived sexual orientation or gender identity?
- If the youth is transgender, is he or she undergoing hormone or other medical treatments, either medically prescribed or from other sources? If the youth is detained or placed out-of-home, how will you ensure that this treatment continues?
- If the LGBT youth is currently detained, has the youth been treated respectfully and not inappropriately isolated or segregated? Has the youth experienced abuse in detention due to his or her LGBT identity? For transgender youth, has the facility respected the youth's gender expression regarding hairstyle, name, pronouns, and presentation?

- Do any of the reports to the court indicate the writer may be biased against LGBT youth?
- Can the detention facility adequately protect an LGBT youth from physical and sexual assault? Does the youth have any mental health issues, including a trauma history, that further implicates the youth's safety in detention?
- If detained, is it necessary to issue an order requiring the facility not to discriminate against the LGBT youth and/or to ensure the youth's physical and emotional safety? Did you issue this order?
- If a transgender youth is detained, will this youth be placed in a unit according to his or her gender identity rather than birth sex? How does the facility plan to keep the transgender youth safe? Is it necessary to issue an order requiring the facility to respect a transgender youth's gender expression and/or to ensure the youth receives appropriate medical care? Did you issue this order?

Practice Tips for Judges: Checklist for Detention Placements of LGBT Youth

Before placing an LGBT youth in a detention facility or any other secure or non-secure placement, juvenile court judges should find out:

- What the facility's policies are regarding treatment of LGBT youth.
- What the facility's staff training on LGBT issues entails.
- What the facility's policies are regarding segregating youth.
- Whether the facility provides equal access to programs and services.
- Whether transgender youth will be treated appropriately.
- What medical/mental health practitioners will be available to the LGBT youth and if they are knowledgeable about LGBT issues.

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