

Spotlight on Advocacy: LGBTQ Youth in Suffolk County

By Christopher J. Chimeri

Foremost, I am not on the Attorney for Children panel, but part of my professional development is to learn and understand the role of the AFC, not just to learn how to best represent my own clients, but out of intellectual curiosity and professional appreciation for the important role these lawyers fill. Given the nature of this month's topic, I will be more "conversational" and less "scholarly" than in previous months. The purpose is to highlight a growing subset of youth that are involved in our courts and what is being done to help them.

For those reading this article that do not practice in the Domestic Relations arena, the AFC and his or her responsibilities are derived from § 7.2 of the Rules of the Chief Judge. In relevant part, it provides:

- (a) As used in this part, "attorney for the child" means a[n attorney] appointed by family court pursuant to section 249 of the Family Court Act, or by the supreme court or a surrogate's court in a proceeding over which the family court might have exercised jurisdiction had such action or proceeding been commenced in family court or referred thereto.
- (c) In juvenile delinquency and person in need of supervision proceedings, where the child is the respondent, the attorney for the child must zealously defend the child.
- (d) In other types of proceedings, where the child is the subject, the attorney for the child must zealously advocate the child's position. (1) In ascertaining the child's position, the attorney for the child must consult with and advise the child to the extent and in a manner consistent with the child's capacities, and have a thorough knowledge of the child's circumstances. (2) If the child is capable of knowing, voluntary and considered judgment, the attorney for the child should be directed by the wishes of the child, even if the attorney for the child believes that what the child wants is not in the child's best interests. The attorney should explain fully the options available to the child, and may recommend to the child a course of action that in the attorney's view would best promote the child's interests. (3) When the attorney for the child is convinced either that the child lacks the capacity for know-

ing, voluntary and considered judgment, or that following the child's wishes is likely to result in a substantial risk of imminent, serious harm to the child, the attorney for the child would be justified in advocating a position that is contrary to the child's wishes. In these circumstances, the attorney for the child must inform the court of the child's articulated wishes if the child wants the attorney to do so, notwithstanding the attorney's position.

In sum, the AFC must zealously advocate for child virtually at all times and must consider the "child's capacities, and have a thorough knowledge of the child's circumstances." This presents as, perhaps, uncharted territory, for even the most experienced AFC, when dealing with LGBTQ youth, a growing population in our courts.

Suffolk County is fortunate that several of our AFCs recently attended Georgetown University's "The Supporting the Well-Being of System-Involved LGBTQ Youth Certificate Program," which, per Georgetown's website, boasts:

The program will focus on the particular challenges faced by LGBTQ youth in child-serving systems (including juvenile justice, child welfare, education and behavioral health) as well as strengths and protective factors common to the population, and will highlight effective policy and practice reforms that promote positive youth development and take a holistic approach to addressing their needs.

Participants will receive instruction from national experts on the terms and concepts related to sexual orientation, gender identity and expression (SOGIE), and how to shape organizational cultures and approaches to support the safety and well-being of LGBTQ youth. This includes guidance on how to develop effective policies, training, and data evaluation efforts; better identify and effectively engage LGBTQ youth and their families; build community capacity to serve this population; and develop comprehensive and multi-faceted strategies and supports that promote positive youth development. Specific attention will be paid to the prevalence of multi-system involvement and compounding



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issues of implicit bias and stigma, racial and ethnic disparities, homelessness and commercial sexual exploitation of LGBTQ youth.

Among the attendees was Catherine E. Miller, one of Suffolk County's more experienced AFCs, who is credited as a contributor to this article. Catherine was kind enough to share her thoughts and "takeaways" from the program. "As an attorney representing children and parents in

Family Court and Matrimonial Matters, the interaction with LGBTQ youth and their families is becoming more and more prevalent and if not for my own personal experience with my transgender child I would be ignorant about the issues these children face. These children often suffer from anxiety, depression, suicidal ideation, isolation, rejection," says Ms. Miller. She cautions, "we are not social workers, but in representing children or the parents of LGBT children, we need to be educated about the available resources and we should know that there is a system in place that will consider the needs of LGBT youth."

When asked about the issues these children face. Ms. Miller pointed out by way of example, an LGBTQ child attending school that deals with bullying, bathroom use, changing for gym class, and social stressors. Further, LGBTQ youth at home may face parents or siblings that are not accepting, punishing, bullying, or worse.

Ms. Miller also observed that "we may think that these issues don't exist in 2017, but change is slow to take place." Shockingly, there are only 18 out of our 50 states that have non-discrimination laws protecting the rights of transgender people, and New York is *not* one of them. However, New York does protect the rights of people based on their sexual orientation. In 2008, Gladys Carron, with the OFCS, was one of the first in New York to attempt to address LGBTQ youth in the N.Y. justice system, but was met with no real follow up, and more importantly, no real policy change.

Miller is working diligently toward this policy change. She recently, along with several other AFCs, submitted individual and group applications with proposals for an initial Capstone project. A Capstone Project is a set of actions each Certificate Program par-

ticipant will design and undertake within their organization and/or in their community to initiate or continue system improvement efforts related to the program they attended. The Capstone Project is required of every Certificate Program participant and must be approved by the Center for Juvenile Justice Reform for successful completion of the program and acceptance into the Fellows Network. The Capstone Project provides an opportunity to apply and develop learning from the Certificate Program. It must be an effort that involves more than one child serving system and must be focused on some aspect of the respective Certificate Program.

The Capstone project is intended to: Gather data to prove a need for policy change; create the policies for the juvenile justice system and the child welfare system, by training and educating on all levels, including attorneys, so that these children are properly represented and even for private matrimonial and family court attorneys, to aid in representation of parents confronted with these issues.

Ms. Miller cautiously and appropriately observed that, most importantly, "[we must] follow up to ensure that the policies are implemented, and we are not going to get every judge, court officer, probation officer, attorney, etc. to be accepting, but regardless of personal beliefs, what needs to be remembered is it is part of their job to represent, assist or protect."

The Suffolk County Bar Association's LGBT Law Committee wishes to express our gratitude for Catherine, and the other AFCs that attended the program, including Michael Gulotta and Ian Moss.

Catherine E. Miller contributed to this article.

Note: Christopher J. Chimeri is partner with the Hauppauge law firm Quatela Chimeri PLLC and heavily focuses on complex trial and appellate work in the matrimonial and family arena. He sits on the Board of Directors of the Suffolk County Matrimonial Bar Association and is a co-founder and co-chair of the Suffolk County Bar Association's LGBT Law Committee. From 2014-2017, he has been peer-selected as a Thomson Reuters Super Lawyers® "Rising Star," and was recently featured in Forbes Magazine, Long Island Business News, and New York Magazine as a "Leader in Law."