



NEW YORK
CITY BAR

**REPORT ON LEGISLATION BY THE
LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUEER RIGHTS COMMITTEE,
THE SOCIAL WELFARE LAW COMMITTEE, THE
CHILDREN AND THE LAW COMMITTEE AND THE COUNCIL ON CHILDREN**

Int. 2405A-2021

Council Members Levin, Rose, Dinowitz, Brannan, Kallos, Adams, Menchaca, Rosenthal, Reynoso, Rivera, Louis, Lander, Koo, Diaz, Maisel, Riley

A LOCAL LAW to amend the administrative code of the city of New York, in relation to runaway and homeless youth eligibility for rental assistance

Int. 0148A-2018

Council Members Levin, Brannan, Maisel, Ayala, Rosenthal, Powers, Kallos, Dinowitz, Adams, Menchaca, Reynoso, Rose, Rivera, Louis, Lander, Koo, Diaz, Riley

A LOCAL LAW to amend the administrative code of the city of New York, in relation to requiring that the department of social services recognize time spent in foster care for the purpose of rental voucher eligibility

THESE BILLS ARE APPROVED

The New York City Bar Association’s Lesbian, Gay, Bisexual, Transgender and Queer Rights Committee (the “LGBTQ Rights Committee”), Social Welfare Law Committee, Children and the Law Committee and the Council on Children write in support of the following proposed legislation before the City Council:

- **Int. 2405A-2021:** Providing Runaway and Homeless Youth (“RHY”) in the New York City Department of Youth & Community Development (“DYCD”) shelter system access to the CityFHEPS rental assistance program; and
- **Int. 0148A-2018:** Requiring that the New York City Department of Homeless Services (“DHS”) recognize time spent in foster care as homelessness for the purpose of meeting rental voucher eligibility requirements.

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

The LGBTQ Rights Committee addresses legal and policy issues in legal institutions and the court system that affect LGBTQ individuals. As an active committee of the New York City Bar Association, the LGBTQ Rights Committee takes great interest in issues affecting LGBTQ youth in New York. The proposed laws address the need for increased access to housing for New York’s RHY and foster youth, a large proportion of whom identify as LGBTQ. These laws will directly improve the lives of LGBTQ youth.

The Social Welfare Law Committee’s work focuses on legal issues impacting low-income New Yorkers. The Social Welfare Committee participates in legislative advocacy in areas affecting needs-based government benefits. The Social Welfare Committee’s work also seeks to address public policies which concern income disparities and the social safety net.

The Children and the Law Committee addresses legal issues that impact upon the quality of life for children and families. In furtherance of this mission, the Committee sponsors informational programming at the New York City Bar that highlights child welfare issues, reviews proposed legislation at both the state and federal levels, and discusses and supports innovative initiatives that advance children’s rights.

The Council on Children is comprised of representatives of all the City Bar committees dealing with children, education, family, family court, juvenile justice, and the needs of lesbian, gay, bisexual and transgender youth. Also sitting on the Council are representatives of the child welfare, juvenile justice and foster care communities, including attorneys representing parents and children.

I. INTRODUCTION

New York City’s homeless population remains at one of its highest levels since the Great Depression. LGBTQ young people continue to represent a disproportionate number of RHY and foster youth, both in New York City and nationally. LGBTQ youth are uniquely vulnerable to the harms that can result from living without shelter because they face widespread discrimination and often lack familial support. The City Council should take immediate action to protect LGBTQ youth and pass Ints. 2405A-2021 and 0148A-2018.

II. DISCUSSION

a. Proposed Changes to CityFHEPS Rental Assistance for RHY Youth

CityFHEPS rental assistance allows individuals to “rent an entire apartment, a single room in an apartment, or a [single-room occupancy] unit” in New York City for a maximum of five years, unless good cause is shown to extend further.¹ CityFHEPS currently only provides rental assistance to individuals who are residing in a New York City Human Resources Administration (“HRA”) shelter, which includes DHS shelters—or if a person is street homeless, has been receiving DHS services for 90 days, and meets certain income requirements.²

Int. 2405A-2021 would provide RHY in the DYCD shelter system access to the CityFHEPS rental assistance program, for which they currently do not qualify because DYCD

shelters are not a part of the HRA/DHS system. Int. 2405A-2021 would require the New York City Department of Social Services (“DSS”) to count the time RHY have spent in a DYCD shelter as “homelessness” when determining whether they are eligible for CityFHEPS rental assistance and no longer require RHY to live outside of a DYCD shelter as a condition of eligibility for CityFHEPS.

Int. 0148A-2018 would count the time youth have spent in foster care as “homelessness” for the purposes of rental assistance voucher eligibility requirements. Taken together, Int. 2405A-2021 and Int. 0148A-2018 would ensure that RHY and foster youth have access to rental assistance regardless of whether they were on the street, in a shelter, or currently/formally in foster care.

b. Unique Challenges Facing LGBTQ RHY Require Increased Access to Housing

i. LGBTQ Youth Are Overrepresented in the City’s RHY and foster youth populations

Even among the rising, record-setting numbers in the City’s overall homeless population,³ LGBTQ youth are vastly overrepresented. Nationally, LGB youth make up approximately 3.5-8% of the general population, but 29% of the homeless population.⁴ Transgender youth constitute an estimated 0.3% of the general population, yet they are 4% of the homeless population.⁵

In New York City, the number of homeless LGBTQ youth may be even higher.⁶ Many are also people of color.⁷ The intersectional impact of discrimination based on sexual orientation, gender identity and race fuels New York City’s housing crisis for youth. In fiscal year 2021:

- LGBTQ youth were receiving 24% of crisis services and 20% of Transitional Independent Living services (TIL) from DYCD;
- Transgender youth were receiving 3% of crisis services and 5% of TIL services from DYCD (nonbinary/gender-nonconforming youth were receiving 1.7% and 1.9%, respectively).
- Black or African American youth were receiving 59% of crisis services and 61% of TIL services from DYCD; and
- Latinx youth were receiving 33% of crisis services and 36% of TIL services from DYCD.⁸

Experts and community members highlight the need for increased resources for LGBTQ youth. Compared to their non-LGBTQ counterparts, LGBTQ youth are at increased risks for physical and mental health problems—particularly HIV/AIDS, depression, and anxiety—and experience longer periods of homelessness.⁹ LGBTQ youth are more likely to have been rejected by their families, and so are less able to rely on familial support.¹⁰ They are more likely to be

forced into underground economies, such as survival sex, and more likely to be both the victims of crimes and the targets of overzealous policing.¹¹ “The disparities faced by youth of color and LGBTQ youth; the increase in youth identified as experiencing homelessness since 2015; and utilization of homeless services by youth previously served by child welfare, juvenile justice or Runaway and Homeless youth programs, demonstrate an immediate need for deeper and ongoing investment towards preventing and ending youth homelessness in NYC.”¹²

ii. *Adult Shelter Requirements and “Aging Out” Reduce LGBTQ Youth’s Access to Housing*

With LGBTQ youth less able to depend on familial support, City-sponsored shelters play an immense role in stabilizing their lives. The current time allotted to RHY in a crisis bed, no more than 120 days, is too short a period to meaningfully help LGBTQ young people—who may have been rejected by their families, struggled with their own identities, and faced serious bias and possibly violence—navigate a system that overwhelms many adults. Currently, few RHY succeed in finding stable housing.¹³ Access to housing and youth-specific services can benefit RHY in employment and numerous other positive outcomes above and beyond the obvious benefit of giving a homeless youth a place to live.¹⁴

In New York City, “[a]nyone from 18 to 21 staying in a shelter run by [DYCD] currently has to check into crowded and dangerous adult shelters to get in line to receive housing aid, as if starting from scratch.”¹⁵ The DHS shelter system is particularly fraught for LGBTQ young adults, “many of whom feel unsafe in DHS shelters” and are disproportionately targeted by violent actors.¹⁶ Advocates report that, as a consequence, many homeless youth “may end up on the street, as they tend to be fearful of bullying, harassment, sexual assault, and violence in adult shelters.”¹⁷ Losing access to services causes some homeless young adults to resort to survival behaviors rather than risk harm in adult shelters.¹⁸

In fiscal year 2021, approximately 36% of RHY in the DYCD shelter system transitioned to another homeless situation, as compared to only 1% transitioning to supportive housing, which is permanent and includes additional services.¹⁹ In addition, there were no RHY in fiscal year 2021 who attained subsidized housing such as NYCHA or Mitchell Lama.²⁰ In expanding CityFHEPS access to RHY, the City would reallocate resources to serve young New Yorkers more efficiently and effectively, while relieving the burden on the overcrowded shelter systems.

“Aging out” out of the foster care system presents a host of problems for foster youth, but particularly for LGBTQ youth, who “face an indifferent world” where “inequalities in housing, health, educational achievement, and rates of incarceration are staggering.”²¹ A recent 2020 study found that 34.1% of New York City’s foster youth identify as LGBTQ.²² Of the percentage of LGBTQ youth in foster care in NYC, nearly 3/4 were African American and nearly 1/3 were Latinx.²³ Int. 0148A-2018’s expansion to count the time youth have spent in foster care as “homelessness” for purposes of attaining rental assistance vouchers would help to alleviate some of the disparate impact faced by NYC foster youth, many of whom are LGBTQ and people of color, in attaining stable housing.

iii. *Source of Income Discrimination: The Next Hurdle in RHY Access to Housing*

The expansion of rental assistance for RHY and foster youth, if adopted, will be the key first step to ensure LGBTQ youth are able to access stable housing. Although discrimination in housing based on an applicant's lawful source of income ("SOI") is illegal under both New York City²⁴ and State²⁵ law, SOI discrimination remains commonplace. Landlords and brokers throughout the City frequently discriminate openly or otherwise create barriers to screen out anyone with a public SOI.²⁶ As knowledge of formal protections against SOI discrimination has increased, housing providers have increasingly turned to alternative methods to discourage or ignore voucher-holders. Popularly known as "ghosting," such behavior includes ignoring calls or failing to return them once an applicant has revealed a public SOI, and falsely claiming that an apartment has been rented.²⁷

The unfortunate prevalence of SOI discrimination should not hinder passing Ints. 2405A-2021 and 0148A-2018. Although many rental voucher-holders face discrimination, others are able to find housing that would otherwise be denied to them. Additional SOI discrimination cannot justify failing to provide needed assistance. With RHY and foster youth in crisis, granting them access to vouchers is a pivotal step toward ensuring that they have true access to housing. Once this access is achieved, we then can shift our focus to ensuring that, when RHY and foster youth have these rental assistance vouchers, landlords are complying with the law and not hindering LGBTQ young adults from attaining stable housing.

III. CONCLUSION

LGBTQ youth constitute a disproportionate number of RHY and foster youth, many of whom are youth of color, in New York City, and they lack access to much of the support systems needed to attain adequate housing. The LGBTQ Rights Committee, Social Welfare Law Committee, Children and the Law Committee and Council on Children support passage of Ints. 2405A-2021 and 0148A-2018 to allow RHY and foster youth access to CityFHEPS rental assistance. By passing this legislation, the City Council will help vulnerable LGBTQ youth and youth of color attain housing stability that will allow them to access the community resources they need to not just survive but thrive.

Lesbian, Gay, Bisexual, Transgender, and Queer Rights Committee
Danielle (Danny) King and Geoffrey L. Wertime, Co-Chairs

Social Welfare Law Committee
Katharine Deabler-Meadows, Chair

Children and the Law Committee
Melissa J. Friedman, and Rachel Stanton, Co-Chairs

Council on Children
Dawne Mitchell, Chair

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¹ *CityFHEPS Frequently Asked Questions*, NYC DSS 3-4 (Aug. 27, 2021), <https://www1.nyc.gov/assets/hra/downloads/pdf/cityfheps-documents/dss-7n-e.pdf>.

² *See id.* at 1-2.

³ *See, e.g., Basic Facts About Homelessness: New York City*, COALITION FOR THE HOMELESS (Nov. 2021), <https://www.coalitionforthehomeless.org/basic-facts-about-homelessness-new-york-city> (“In recent years, homelessness in New York City has reached the highest levels since the Great Depression of the 1930s.”); David Brand, *NYC Touts Drop in Street Homelessness, But Advocates Say Count Obscures Extent of Crisis*, CITY LIMITS (May 20, 2021), <https://citylimits.org/2021/05/20/nyc-touts-drop-in-street-homelessness-but-advocates-say-count-obscures-extent-of-crisis> [hereinafter *Count Obscures*]; Emma Whitford, *Annual Street Homeless Count Shows 40 Percent Increase Over 2016*, GOTHAMIST (July 5, 2017), http://gothamist.com/2017/07/05/homeless_count_2017.php; Nikita Stewart, *City Expands Services as More Become Homeless, Even with a Job*, N.Y. TIMES (July 19, 2017), <https://www.nytimes.com/2017/07/19/nyregion/homelessness-new-york-manhattan-shelters.html>.

⁴ S.K. Choi et al., *Serving Our Youth 2015: The Needs and Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth Experiencing Homelessness*, WILLIAMS INST. 9-10 (June 2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Serving-Our-Youth-June-2015.pdf>. Data from this and many other LGBTQ-specific studies, which are not published as frequently as studies of the overall homeless population, predate the COVID-19 pandemic, and so do not account for the changes in homelessness and attendant services that it precipitated. *See Count Obscures*, *supra* note 3 (describing how “[t]he COVID-19 pandemic compelled the city to take a different approach” to homeless count and to create alternate forms of housing); *see also* M.H. Morton et al., *A Youth Homelessness System Assessment for New York City*, CHAPIN HALL 14 (May 2019), https://www.chapinhall.org/wp-content/uploads/Report_A-Youth-Homelessness-System-Assessment-for-NYC-2019-FINAL.pdf (“[Y]outh experiencing homelessness in NYC disproportionately identify as LGBTQ . . .

These data clearly elevate the importance of LGBTQ-specific prevention strategies as well as safe and affirming housing and services for LGBTQ youth experiencing homelessness.”).

⁵ Choi et al., *supra* note 4, at 10.

⁶ *See* NYC Comm’n on LGBTQ RHY, *All Our Children: Strategies to Prevent Homelessness, Strengthen Services and Build Support for LGBTQ Youth* 21 (June 2010), http://www.nyc.gov/html/om/pdf/2010/pr267_10_report.pdf (“Findings for the percentage of the City’s homeless youth population who identify as LGBTQ range from 13 percent to 36 percent or more.”); *see also* N.Y.C. Cent. Innovation through Data Intelligence, *New York City Youth Count Report 2018*, <https://www1.nyc.gov/assets/cidi/downloads/pdfs/NYC-Youth-Count-Findings-2018.pdf> (last visited Nov. 11, 2021) (latest year for which data is available); *Report of the New York City Youth Homelessness Taskforce*, YOUTH TODAY 12 (Jan. 2019), <http://youthtoday.org/wp-content/uploads/sites/13/2019/09/Report-of-NYC-Youth-Homelessness-Taskforce-January-20191.pdf> [hereinafter *Taskforce Report*] (“NYC has not effectively captured the sexual orientation or gender identities of young people receiving social services broadly. However, as of July 2018, DYCD started collecting the gender identity of clients served by their contracted providers beyond male and female categories. This data collection occurs at intake, which necessitates that LGBTQ youth are willing to disclose their identities upon initial contact and openly identify in their identity at that time.”); Nikita Stewart, *Homeless Young People of New York, Overlooked and Underserved*, N.Y. TIMES (Feb. 5, 2016), <http://www.nytimes.com/2016/02/06/nyregion/young-and-homeless-in-new-york-overlooked-and-underserved.html>.

Nationally, the vast majority of homeless LGBT youth (78.2% of LGB youth and 84.5% of transgender youth) became homeless after they were kicked out of or ran away from home because of their sexual orientation or gender identity or expression. See Choi et al., *supra* note 4, at 12, figure 12.

⁷ Choi et al., *supra* note 4, at 3.

⁸ DYCD, *Local Law 86 of 2019 Report to the Speaker of the City Council Fiscal Year 2021*, NYC 2-4, https://www1.nyc.gov/assets/dycd/downloads/pdf/FY21_LL86_RHY_Demographics-and-Services_Report-Final.pdf (last visited Nov. 12, 2021) (latest available annual report on NYC services for RHY).

⁹ See Choi et al., *supra* note 4, at 13-14 (collecting research); Meredith Dank, Lilly Yu and Jennifer Yahner, *Access to Safety: Health Outcomes, Substance Use and Abuse, and Service Provision for LGBTQ Youth, YMSM, and YWSW Who Engage in Survival Sex*, URBAN INST. 5 (2016), <https://www.urban.org/sites/default/files/publication/77601/2000605-Access-to-Safety.pdf>.

¹⁰ See *Family Acceptance as One Solution to LGBT Youth Homelessness*, NAT'L ALLIANCE TO END HOMELESSNESS (Sept. 7, 2012), <http://www.endhomelessness.org/library/entry/family-acceptance-as-one-solution-to-lgbt-youth-homelessness>; Caitlin Ryan et al., *Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults*, 123 PEDIATRICS 346 (2009), <http://pediatrics.aappublications.org/content/123/1/346.full.html>.

¹¹ See ANDREW CRAY ET AL., *SEEKING SHELTER: THE EXPERIENCES AND UNMET NEEDS OF LGBT HOMELESS YOUTH 14-16* (2013), <https://americanprogress.org/article/seeking-shelter-the-experiences-and-unmet-needs-of-lgbt-homeless-youth/>; Dank et al., *Access to Safety*, *supra* note 9, at 6.

¹² *Taskforce Report*, *supra* note 6, at 29.

¹³ See Testimony of Craig Hughes before the New York City Council Committees on General Welfare and Youth Services in favor of bills 490, 410, 566, and related bills as introduced in 2017, Sept. 28, 2017, at 6 and Appendix 1.

¹⁴ See Voices of Youth Count, *Evidence Summary: Shelter and Housing Interventions for Youth Homelessness*, CHAPIN HALL 1 (Nov. 2019), https://www.chapinhall.org/wp-content/uploads/Chapin-Hall_VoYC_Evidence-Review_Shelter-and-Housing.pdf. RHY advocates have shown that although such data are promising, youth-specific programs require more rigorous study to determine the extent of their effectiveness and how best to maximize it. See Matthew Morton et al., *Measuring Up: Youth-level Outcomes and Measures for System Responses to Youth Homelessness*, CHAPIN HALL (May 2019), <https://www.chapinhall.org/wp-content/uploads/Measuring-Up-Youth-Outcomes-Project-Youth-Collaboratory-Chapin-Hall-Final-v8.pdf>; see also *id.* at 8 (noting prevalence of LGBTQ RHY and recommending that “outcomes and measures should be culturally valid for, and normed with, youth of color and LGBTQ youth”).

¹⁵ Eileen Grench, *Homeless Youth Would Get an Easier Path to Housing Help, Under City Council Bill*, THE CITY (Sept. 23, 2021, 9:18 PM EDT), <https://www.thecity.nyc/housing/2021/9/23/22690856/homeless-youth-would-get-an-easier-path-to-housing-help-under-city-council-bill> (internal link omitted) [hereinafter *Easier Path*]; see also, e.g., Eileen Grench, *De Blasio's Promised Rent Help for Homeless Youth Takes a Detour*, THE CITY (May 25, 2021, 6:16 PM EDT), <https://www.thecity.nyc/housing/2021/5/25/22453822/rent-help-for-nyc-homeless-youth-delayed-by-shelter-rule>; Greg B. Smith, *How Shelter Chaos Drives Many Homeless to Live on Streets and in Subways*, THE CITY (Nov. 18, 2019, 4:15 AM EST), <https://www.thecity.nyc/special-report/2019/11/18/21210717/how-shelter-chaos-drives-many-homeless-to-live-on-streets-and-in-subways> (special report describing rampant danger and extended stays at 30th Street Men's Shelter, one of DHS' intake sites).

¹⁶ Miranda Katz, *De Blasio Pledges Additional 300 Beds In Youth Shelters, "Taking The Gloves Off" On Homelessness*, GOTHAMIST (Jan. 8, 2016), http://gothamist.com/2016/01/08/de_blasio_youth_homeless.php; see also *Easier Path*, *supra* note 15 (“Homeless young people have repeatedly told THE CITY that the adult shelters are treacherous, particularly for LGBTQIA+ youth. For many, that means adult shelters are a no-go.”).

¹⁷ Voices of NY, *Helping the Homeless Ages 21 to 24*, CUNY GRAD. SCH. J'ISM (Apr. 28, 2017), <https://web.archive.org/web/20171028125830/https://voicesofny.org/2017/04/helping-the-homeless-ages-21-to-24> (archival link).

¹⁸ See Testimony of Craig Hughes, *supra* note 13, at 7 (describing “the lack of permanent housing options” available to RHY, and noting that “LGBTQQ youth, particularly transgender young people, are simply not safe in the adult shelters and, often times, in the RHY programs.”).

¹⁹ DYCD, *supra* note 8, at 6.

²⁰ *Id.* at 6.

²¹ Ryan Berg, NO HOUSE TO CALL MY HOME xv (2015).

²² Theo G. M. Sandfort, *Experiences and Well-Being of Sexual and Gender Diverse Youth in Foster Care in New York City/ Disproportionality and Disparities*, NEW YORK CITY ADMINISTRATION FOR CHILDREN'S SERVICES (2020), <https://www1.nyc.gov/assets/acs/pdf/about/2020/WellBeingStudyLGBTQ.pdf>.

²³ *Id.* at 5.

²⁴ NYC Admin. Code § 8-107(5); see also *Source of Income Discrimination*, NYC COMM’N HUMAN RIGHTS, <https://www1.nyc.gov/site/cchr/law/source-of-income.page> (last visited Nov. 11, 2021) (describing City SOI protections).

²⁵ N.Y. Exec. Law §§ 296(2-a), (5); see also *Source of Income Discrimination*, N.Y.A.G., <https://ag.ny.gov/source-income-discrimination> (last visited Nov. 11, 2021) (describing state SOI protections).

²⁶ In paired testing, people with public SOI’s were faced discrimination in hearing back from agents (21% with public SOI vs. 61% with employment income), being told units were not available (25% vs. 6%), being invited to view units (7% vs. 26%), waiting longer to hear back from agents (30 hours vs. 12.5 hours), and faced barriers based on credit, minimum income requirements that do not include public SOI’s, employment status, and late payments. *Vouchers to Nowhere*, TAKEROOT JUSTICE 9-10 (Sept. 14, 2020), <https://takerootjustice.org/wp-content/uploads/2020/09/Vouchers-To-Nowhere.pdf>. See also Matthew Haag, ‘She Wants Well-Qualified People’: 88 Landlords Accused of Housing Bias, N.Y. TIMES (Mar. 19, 2021), <https://www.nytimes.com/2021/03/15/nyregion/real-estate-lawsuit-section-8-discrimination.html> (“The lawsuit raises questions not only about widespread bias against voucher recipients but also about the blatant flouting by agents and property owners of both New York City and New York State laws that prohibit discrimination against people because of their source of income.”).

²⁷ See *Vouchers to Nowhere*, *supra* note 26, at 9-10.