

IN THE
United States Court of Appeals
FOR THE THIRD CIRCUIT

TARA KING, ED. D. Individually And On Behalf Of Her Patients; RONALD
NEWMAN, PH. D., Individually And On Behalf Of His Patients; NATIONAL
ASSOCIATION FOR RESEARCH AND THERAPY OF HOMOSEXUALITY (NARTH);
AMERICAN ASSOCIATION OF CHRISTIAN COUNSELORS,

Appellant,

—v.—

GOVERNOR OF THE STATE OF NEW JERSEY; ERIC T. KANEFSKY, DIRECTOR OF
THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY: DIVISION OF
CONSUMER AFFAIRS, In His Official Capacity; MILAGROS COLLAZO,
EXECUTIVE DIRECTOR OF THE NEW JERSEY BOARD OF MARRIAGE AND FAMILY
THERAPY EXAMINERS, In Her Official Capacity; J. MICHAEL WALKER,
EXECUTIVE DIRECTOR OF THE NEW JERSEY BOARD OF PSYCHOLOGICAL
EXAMINERS, In His Official Capacity; PAUL JORDAN, PRESIDENT OF THE NEW
JERSEY STATE BOARD OF MEDICAL EXAMINERS, In His Official Capacity;
GARDEN STATE EQUALITY,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

**BRIEF FOR AMICI CURIAE IN SUPPORT OF
DEFENDANTS-APPELLEES AND FOR AFFIRMANCE**

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and Israel Martinez, LCSW*

United States Court of Appeals for the Third Circuit

**Corporate Disclosure Statement and
Statement of Financial Interest**

No. 13-4429

TARA KING, ED. D. Individually And On Behalf Of Her Patients; RONALD
NEWMAN, PH. D., Individually And On Behalf Of His Patients; NATIONAL
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Instructions

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If additional space is needed, please attach a new page.

Parents, Families and Friends of Lesbians and Gays (PFLAG)

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s/ Lisa A. Linsky

(Signature of Counsel or Party)

Dated: 3/4/14

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s/ Lisa A. Linsky
(Signature of Counsel or Party)

Dated: 3/4/14

CONSENT TO FILE AMICUS BRIEF

All parties, through their counsel, have consented to the filing of an Amici Curiae brief by Parents, Families and Friends of Lesbians and Gays; The Trevor Project; Truth Wins Out; The Lesbian, Gay, Bisexual & Transgender Community Center in New York City; Dr. Judith Glassgold, PsyD; and Israel Martinez, LCSW (the “Amici”) in this matter. Mary Elizabeth McAlister, on behalf of Plaintiff/Appellants, granted consent to Lisa Linsky, Counsel for Amici, by email dated February 27, 2014. Susan Scott, on behalf of Defendants/Appellees, granted consent to Lisa Linsky, Counsel for Amici, by email dated February 26, 2014. Amy Whelan of the National Center for Lesbian Rights, on behalf of Intervenor Garden State Equality, granted consent to Hayley Gorenberg, by email dated March 3, 2014.

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INTEREST OF *AMICI CURIAE*¹

Amici are six professionals and public interest organizations and advocacy groups whose professional employees, leaders, and members have experienced, observed, represented, and cared for lesbian, gay, bisexual, transgender, and questioning (“LGBTQ”) individuals suffering family rejection and, in particular, the harms of sexual orientation change efforts (“SOCE”).² *Amici* have witnessed firsthand the casualties of baseless promises under the guise of “therapy” to change the sexual orientation and gender identity of minors. *Amici*’s contributions are testaments to lives scarred or lost to suicide, and to ruptured families in which parents—falsely led to believe their children could change—shame, isolate, and reject their own children to an extreme that all too often ends with the parents throwing their children out of their homes for “failing” SOCE. Accordingly, *Amici* respectfully request that this Court affirm the decision of the United States District Court for the District of New Jersey and allow N.J. STAT. ANN. §§ 45:1-54, -55 (2013) to avert harm to LGBTQ youth.

¹ No party or party’s counsel authored any portion of this brief; no one other than *Amici* or their counsel contributed any money to fund this brief or aid in its preparation or submission.

² A description of each *amicus* is attached as Exhibit A.

INTRODUCTION AND SUMMARY OF ARGUMENT

N.J. STAT. ANN. §§ 45:1-54, -55 (2013) properly safeguards the lives of children, their relationships with their families, family resources, and the resources the State will inevitably have to provide when SOCE leads to increased family rejection, homelessness, and entry of LGTBQ children into foster care or juvenile justice systems. The harms of SOCE, recounted by *Amici* from across the nation, and with particular experience in New Jersey, are completely consistent with published literature, reports, legislative history, and other expert materials submitted in this case. Some *Amici* provide the Court with accounts of their experiences with lesbian, gay, bisexual, transgender or questioning (“LGBTQ”) youth and their families to further illuminate the very real harms imposed by SOCE. In view of the long-term devastation caused to the psyches of LGBTQ youth, their parents, and families by conversion efforts that seek to change the very essence of the identity of these young people, and without any medical or scientific basis to support such “conversion” efforts, N.J. STAT. ANN. § 45:1-55 is a wholly appropriate exercise of State power to safeguard LGBTQ youth.

ARGUMENT

I. Sexual orientation change efforts endanger youth.

Sexual orientation change efforts, which depend on the unsupported premise that LGBTQ identities are chosen abnormalities that stand to be corrected, endanger the very people they purport to help. As described below, in excerpts from interviews conducted by counsel for *Amici* in January and February 2014, and other expert materials submitted in this case, *Amici* have experienced and witnessed the aftershock of SOCE on LGBTQ youth and adults, including, but not limited to suicidality and other self-injuries, homelessness, anxiety and depression, and future aversion to therapeutic help that may make the difference between life and death. Additionally, SOCE results in irreparable family schisms. Too many LGBTQ youth and adults, and their respective parents and families, waste significant time and money in pursuing conversion efforts because they are desperate for help. These change efforts result in often irreversible harm leading to the break-up of families. LGBTQ youth and their parents and families are all-too-often misguided by the spurious representations of therapists motivated by personal agendas rooted in the judgment that LGBTQ identity is a condition to be fixed.

A. Young people exposed to sexual orientation change efforts often do not survive unscathed, and, in too many cases, they do not survive at all.

Young people subjected to forms of family rejection such as SOCE efforts are far more likely to be depressed and suicidal than those who are not subjected to such change efforts. LGBTQ youth experience high levels of family rejection and are “8.4 times more likely to report having attempted suicide, 5.9 times more likely to report high levels of depression, 3.4 times more likely to use illegal drugs, and 3.4 times more likely to report having engaged in unprotected sexual intercourse compared with peers from families that reported no or low levels of these family rejecting behaviors.” N.J. STAT. ANN. § 45:1-54(m) (citing Caitlin Ryan, David Huebner, Rafael M. Diaz & George Sanchez, *Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay and Bisexual Young Adults*, 123 PEDIATRICS 346 (Jan. 1, 2009)); *see also* Decl. of Laura Davies, SA-138, ¶ 18 (hereinafter, “Davies Decl.”) (citing Stewart L. Adelson & the Am. Acad. Of Child and Adolesc. Psychiatry Comm. on Quality Issues, *Practice Parameter on Gay, Lesbian, or Bisexual Sexual Orientation, Gender Nonconformity, and Gender Discordance in Children and Adolescents*, 51(9) J. AM. ACAD. CHILD ADOLESC. PSYCHIATRY 957, 968 (2012) (SOCE treatments “encourage family rejection and undermine self-esteem”)); Decl. of Douglass C. Haldeman, SA-84-85, ¶¶ 10-11 (hereinafter, “Haldeman Decl.”) (harm from SOCE

includes “depression, guilt, anxiety, low self-esteem, intimacy avoidance, sexual dysfunction, suicidal ideation, and other negative consequences”); *Perry v. Schwarzenegger*, 704 F. Supp. 2d 921, 966 (N.D. Cal. 2010) (“No credible evidence supports a finding that an individual may, through conscious decision, therapeutic intervention or any other method, change his or her sexual orientation.”); *Pederson v. Office of Pers. Mgmt.*, No. 3:10-cv-1750 (VLB), 2012 WL 3113883, *24 (D. Conn. July 31, 2012) (sexual orientation change efforts do not work and are likely to have a risk of harm). In fact, young people are “much more vulnerable to the potentially traumatic effects of SOCE” due to the particulars of adolescent brain development. Decl. of Jack Drescher, M.D., SA-12, ¶ 23 (hereinafter, “Drescher Decl.”) (stating that “minors are particularly at risk of harm from SOCE due to their emotional and cognitive vulnerability”).

The serious harm young people suffer from SOCE is widely acknowledged by leading medical and mental health organizations, which roundly reject SOCE as a legitimate mode of treatment. N.J. STAT. ANN. § 45:1-54(k)–(l)(detailing the positions of leading medical and mental health associations and organizations); *see also* Decl. of Gregory M. Herek, Ph.D., SA-163, ¶ 44 (hereinafter, “Herek Decl.”) (citing Am. Psychological Assoc., Am. Counseling Assoc., and Nat. Assoc. of Social Workers, Policy Statement, *Just the Facts about Sexual Orientation and Youth*, <http://www.apa.org/pi/lgbt/resources/just-the-facts.pdf>) (“[T]he nation’s

leading professional medical, health, and mental health organizations do not support efforts to change young people’s sexual orientation through therapy and have raised serious concerns about the potential harm from such efforts.”); Davies Decl., SA-138, ¶18 (citing Adelson, *supra*, at 968) (The American Academy of Child and Adolescent Psychiatry has advised that SOCE is “contraindicated” due to “the ‘significant risk of harm’, including deaths”); Drescher Decl., SA-8-9, ¶ 15 (quoting the American Psychiatric Association (1998): “The potential risks of ‘reparative therapy’ are great and include depression, anxiety, and self-destructive behavior....”). In addition to the consensus of the medical and mental health communities and the expert declarations submitted in the lower court, the professional experiences of the undersigned *Amici* underscore the harm LGBTQ young people suffer as a result of SOCE.

Dr. Judith Glassgold (“Glassgold”), a licensed New Jersey psychologist and former head of the New Jersey Psychological Association, has worked for over twenty years with LGBTQ adults who have experienced various forms of SOCE, and explained the particular harm that these change efforts cause to minors:

These kids are tremendously vulnerable and desperate to latch onto something that will make them ‘okay.’ But sexual orientation change efforts are based on false promises. These kids are looking for answers, and this makes them ripe for exploitation by therapists who may have personal agendas and not have the best interests of their patients at heart. This increases the risk of risky behaviors for these kids.... Change efforts can be extremely dangerous in terms of kids’ physical and emotional health.

Telephone Interview with J. Glassgold (Feb. 19, 2014) (hereinafter, “Glassgold Interview”). In fact, SOCE “exacerbates the intensity of the very symptoms which brought the patient into therapy in the first place. It then becomes a vicious cycle where the person just keeps getting worse.” *Id.* Young people subjected to SOCE are often “caught between a rock and a hard place because they cannot find support in their faith communities or families, and don’t necessarily relate to the LGBT community.” *Id.*

Glassgold further explained that major emotional responses to SOCE by LGBTQ youth include “fear, isolation, self-hatred, depression, anxiety, loneliness, confusion, desperation, and an inability to envision a happy future and healthy intimate relationships.” *Id.*

David W. Bond (“Bond”), LCSW, B.C.E.T.S., a psychotherapist and Vice President of Programs at The Trevor Project (the “Project”), oversees suicide prevention and crisis services, including the Project’s national crisis hotline. He reported that, since approximately 2006, the Project has received an estimated 500 calls from young people referencing efforts to change their LGBTQ identity. Telephone Interview with D. Bond (Feb. 18, 2014) (hereinafter, “Bond Interview”). Some callers report being forced into SOCE or being told that they must engage in SOCE or leave home. Others callers report suicidal thoughts and past suicide attempts following SOCE. SOCE promotes “self-loathing, self-

intolerance, or self-hatred” and young people subjected to SOCE begin to see themselves as “morally corrupt, a moral failure, and weak.” *Id.*

Bond recounts examples from the Project’s crisis line (without identifying information):

A 17-year-old New Jersey male, who identifies as bisexual, stated that his parents were threatening to send him to SOCE. He was very anxious. A month later, he called back, and was suicidal with a plan to kill himself that night.

A 21-year-old New Jersey male, who identifies as gay, stated that his parents were “religious” and rejected him at age 18. After an initial suicide attempt, his parents sent him to SOCE. His parents harassed and abused him because of his sexual orientation. When the young man was not “successful” at SOCE, his parents kicked him out of the house. By the time he called the Project, he was homeless, in crisis, and looking for shelter.

Bond’s former colleague, Phoenix Schneider, MSW, after five years of experience with SOCE survivors garnered as Program Director at The Trevor Project, related in an interview last year that young callers to the Trevor crisis line are “just terrified.” Telephone Interview with Phoenix Schneider (Jan. 29, 2013). Some callers state that they are “very depressed,” reporting self-injury following SOCE. “On behalf of the crisis services team at Trevor we can say [SOCE] has a very negative impact. Just knowing that this could be something a parent or guardian could consider doing is very scary,” said Schneider, who recounted additional crisis line examples:

A 21-year-old caller reported feeling suicidal. She went through SOCE three years ago. Following that she jumped into a relationship with a man. She talked a lot about abusive relationships. She felt worthless. She hated herself. She stopped the SOCE and acknowledges that she's gay, and nothing will change it. She has attempted suicide numerous times with pills. She prays a lot. She prays that she will die in an accident. She doesn't believe that she deserves a loving relationship. She says she does not want to hold on much longer.

A 20-year-old called and was considering whether to go through with SOCE. She felt pressured and influenced by family and friends. The bishop at her church encouraged her to go through SOCE, and told her "it's better to be dead than gay." She said she doesn't want to but can't figure out another way to not feel the way she feels. She had been hiding her sexual orientation. She felt that she has to hide being gay because it is wrong. She discussed self-injury.

A persistent caller, now in his 20s, came out at 13 and was sent by his mother for SOCE the next year. He reported that he was instructed on how to be more masculine, told he could not engage in art activities, and threatened that "if [he] chose the gay lifestyle he would die from AIDS." He was made to snap a rubber band against his wrist when he thought of other boys and was punched when he acted like a "sissy." He reported flashbacks and wetting his bed at night, well into his teens. He was anxious and jumped when people came up behind him. He was self-injurious throughout his teens and was expelled from college after attempting suicide by combining alcohol and a friend's prescription medications. He reported banging his head against a wall or desk to deal with stress and anxiety.

Jody Huckaby, ("Huckaby") Executive Director of *Amicus* Parents, Families and Friends of Lesbians and Gays ("PFLAG"), recognizes that the damage from SOCE "continues long after the therapy has stopped." Telephone Interview with J. Huckaby (Feb. 21, 2014) (hereinafter, "Huckaby Interview II"). He recounts the story of a now 50-year-old man who had been subjected to ten years of SOCE when

he was younger, at his family's behest. *Id.* He continued SOCE into adulthood because he felt that he "could not possibly" be gay, and had to endure treatment "to come out all right." *Id.* Throughout the ten-year period, he became convinced that he was failing his family, especially his father, and himself. *Id.* He attempted suicide several times and remains emotionally scarred years later. *Id.*

Israel Martinez, ("Martinez"), LCSW, is a psychotherapist in private practice in New Jersey and a Clinical Social Worker for the Institute of Personal Growth, where he provides individual and couples counseling for adolescents and adults dealing with issues related to sexual orientation, gender identity, depression, anxiety, substance abuse, and HIV/AIDS. According to Martinez, "there are obviously connections between the suicide rate and this feeling of not being worth anything. [As if] there is something wrong with you. You are a blight on society, a blight [on] your family. If you can't feel good about who you are, it makes it easier for you to choose to end your life." Telephone Interview with I. Martinez (Feb.12, 2014) (hereinafter, "Martinez Interview").

B. Sexual orientation change efforts amplify and aggravate both external and internal stigma

In addition to channeling the external stigma and discrimination that LGBTQ youth face, SOCE also contributes to internalizing that stigma and discrimination. Herek Decl., SA-154-55, ¶¶ 22-25 (when minors want to become heterosexual it is because they accept and internalize society's negative evaluation

of homosexuality). That is, LGBTQ youth who undergo SOCE are encouraged to “embrace society’s denigration and discrediting” of their identity. *Id.* at ¶ 22. “When patients begin SOCE therapy, they frequently blame themselves for experiences of rejection or maltreatment rooted in society’s devaluation of same sex sexual orientation. SOCE invariably involves validating and reaffirming this societal rejection, and imbuing it with the false appearance of scientific and medical acceptance.” Haldeman Decl., SA-84, ¶ 10.

External LGBTQ stigma and internalization of that stigma by LGBTQ youth contribute to symptoms of psychological distress, depression, and anxiety affecting LGBTQ youth in far greater numbers than their heterosexual counterparts. Herek Decl., SA-153-54, ¶¶ 20-21, n.20-21 (citing Herek & Garnets, *Sexual Orientation and Mental Health*, 3 ANN. REV. OF CLINICAL PSYCHOL. 343 (2007)); *see generally* Sean Young, *Does “Reparative” Therapy Really Constitute Child Abuse?: A Closer Look*, 6 YALE J. HEALTH POL’Y L. & ETHICS 163, 187-92 (Winter 2006) (reviewing evidence that SOCE causes LGBTQ youth to internalize stigma and that both internal and external stigma cause emotional harm). Indeed, LGBTQ youth whose families force them into so-called reparative therapy³ tend to be armed with few protections against suicidal behavior. *See* N.J. STAT. ANN. § 45:1-54(m) (there is a strong correlation between family rejection and a young person’s tendency to attempt suicide).

³ “Reparative therapy” and “sexual orientation change efforts” (“SOCE”) are often used interchangeably.

Glassgold observed the danger of internalized self-hatred, where young people react against their own identity, and in turn cannot allow themselves to love someone who is gay; thus, they have difficulty engaging in healthy relationships.

Glassgold Interview. According to Glassgold,

[The response to SOCE] can be a lot like Post Traumatic Stress Disorder (“PTSD”). PTSD diverts people from moving on and having an intimate relationship, a job, a career. Their adult identity gets delayed. It’s an important part of the self to resolve. It takes many LGBTQ people a long time to heal.

Id.

According to Martinez, SOCE is “very damaging and sends a destructive message. It reinforces an internalized homophobia that makes people feel as if they’re broken.” Martinez Interview. “I can tell you my [patients] are having trouble connecting with other people [in intimate relationships]. If two men are in a relationship together and there’s internalized homophobia, they’re not going to be as comfortable as they could be. They grew up thinking who they are is wrong, and they built up a wall against connecting with other men.” *Id.*

Martinez related an example of one adult patient, a gay man now in his early 60s. Originally from Cuba, this patient grew up in “a very strict, religious Cuban family.” *Id.* He continues to have trouble feeling comfortable with his sexual orientation because he feels “less than” other people. This stigma is perpetuated by the fact that “the only gay people known by the patient while growing up were people who were mocked, abused, ridiculed and treated violently.” *Id.* Martinez,

like Glassgold, confirmed that this lower self-esteem follows young people into adulthood and affects “the types of jobs they feel they qualify for, the type of relationships they feel they deserve, and what they do in terms of taking care of themselves.” *Id.*

Another side effect of SOCE is the promotion of mixed-orientation marriages that founder because one spouse is gay or lesbian and the other is heterosexual. Some of Martinez’s patients, in denial about their sexual orientation, report having chosen different-sex spouses “because they [the patients] cannot be themselves.” *Id.* “Society was saying there’s something wrong with them, and they tried to do what they’re supposed to do. Now they’re trapped, trying to make themselves happier but also trying not to destroy the lives of the person they’re married to or their children.” In contrast, patients with supportive families and no history of SOCE “have a higher sense of worth,” and in turn lead healthier, more fulfilled lives. *Id.*

Wayne Besen, (“Besen”) founder and executive director of Truth Wins Out (“TWO”), a nonprofit organization “that counters anti-gay and ‘ex-gay’ misinformation campaigns,” <http://www.truthwinsout.org>, has collected the experiences of New Jerseyans who are part of the Straight Spouse Network. Telephone Interview with W. Besen (Feb. 14, 2014) (hereinafter, “Besen Interview”). These “straight spouses have had their lives destroyed. They

believed they were marrying a straight man. The result was a broken family. They felt they were props, put out there, pushed by families to marry. These wives felt like they were collateral damage in an ideological tennis match.” *Id.* SOCE not only violates the trust of the LGBTQ patient, but its repercussions may be felt many years into the future by these straight spouses and the children of marriages the spouses come to feel were shams. Thus, “the same issues of honesty and trust bedevil the straight spouses” as they do the patients. *Id.*; *see also* Drescher Decl., SA-11, ¶ 21; David Perry Interview with Amity Pierce Buxton, Truth Wins Out, Straight Spouse Alliance, <http://www.truthwinsout.org/?s=Straight+Spouse+Network> (Amity Pierce Buxton is the founder of the Straight Spouse Network and author of the book, “Unseen and Unheard,” concerning people living in the United States who have married individuals whose sexual orientation as gay or lesbian was unknown to them at the time of the marriage).

As recognized by the New Jersey legislature, SOCE “may reinforce self-hatred already experienced by the patient.” N.J. STAT. ANN. § 45:1-54(d)(2). In fact, many SOCE patients “were inaccurately told that homosexuals are lonely, unhappy individuals who never achieve acceptance or satisfaction.” *Id.* This misinformation is dangerous and has negative effects on a patient’s relationships, self-worth, and behavior that last well into adulthood. The above-recounted experiences are but a few examples of the harmful stigma that result from SOCE

and, as detailed above, these harmful effects are felt not only by those sent to SOCE, but also by their family members and loved ones.

C. Survivors of sexual orientation change efforts are less likely to seek future mental health care.

Given the innumerable harms experienced by LGBTQ youth who have undergone SOCE, it is not surprising that SOCE survivors may have long-term aversions to any form of therapy or other mental health care. Bond has significant experience counseling LGBTQ youth and reported that those who have had negative experiences with counseling or therapy – and particularly with “failed” change efforts – have a higher propensity to distrust therapists of any kind. Bond Interview. According to Bond, such individuals “wouldn’t go [to therapy in the future] because they were treated so unethically by the therapist when [the patient] was a teenager.” *Id.*

The distrust of therapists and other mental health providers is compounded by the perceived validity attached to SOCE “therapy.” SOCE has actually been described as “ideology posing as therapy.” Besen Interview. Besen further reported that,

SOCE changes [the patients’] entire perspective on the whole world. I see people who have trouble with acceptance after that. They’ve had such a negative portrait painted that it creates a situation where they’re not comfortable in their own skin for quite a while. There’s a great deal of conflict, and it impacts them throughout their lives.... There is long-term damage because [SOCE] destroys trust. It makes

[the patients] uncomfortable being gay and coming out because they always have that voice, the reparative therapist, in their heads.

Id.

Martinez explained that there is “power attached to the word ‘therapy,’” the mantle claimed by practitioners of SOCE. Martinez Interview. Martinez noted that LGBTQ youth may be deterred from seeking therapy or other mental health care in the future due to memories of manipulation and an overall distrust of therapists. *Id.*

In addition, “[p]atients may feel abandoned by their therapists in the event they determine that SOCE is unsuccessful and they choose to come out as gay.” Drescher Decl., SA-14, ¶ 26. Such feelings of abandonment may lead to “an increase in depression, anxiety and self-blame.” *Id.* These results are contrary to the very purpose of therapy, which is to empower patients with the tools of self-determination. “The therapist’s dedication to the patient’s best interest should be paramount in any treatment. SOCE is contrary to this recognized objective of treatment, and, as repeatedly recognized in the mainstream medical and mental health community, SOCE provides little benefit to patients while exposing those patients to substantial risks of harm.” *Id.* at ¶ 28.

Due to the harmful effects and distrust engendered by SOCE, many LGBTQ youth lose faith in therapy and its benefits. Indeed, “the mere act of sending someone to therapy to ‘fix’ or ‘cure’ his or her sexual orientation is very

damaging.” Martinez Interview. The distrust of mental health professionals offering any kind of future assistance to a patient who has previously undergone SOCE runs so deep because “the therapists can assume the role of an authority figure with power to influence their patients.” Glassgold Interview. As explained by Glassgold,

No therapy should have an end point in mind with a specific result, particularly one driven by the therapist, except to relieve some of the patient’s pain. The therapist should not want to make the patient anything [*i.e.*, change the patient’s sexual orientation] but create the environment where the patient may evolve and grow with some self-determination.

Id.

As a result of having undergone change efforts, LGBTQ people who have experienced SOCE may be less likely to seek out therapy or other mental health resources for assistance with challenges and problems later in life because of a lack of faith in the process and fear of repeated exploitation by a “professional” who failed to adhere to the oath to do what is best for the patient, regardless of the therapist’s personal beliefs. Drescher Decl., SA-8-9, ¶ 15.

D. Sexual orientation change efforts damage critical family bonds, including those between parents and their LGBTQ children.

LGBTQ youth forced into SOCE risk losing important family bonds and exacerbating divisions among family members. Indeed, the American Academy of Child and Adolescent Psychiatry (AACAP) has warned that SOCE “may

encourage family rejection and undermine self-esteem, connectedness and caring, important protective factors against suicidal ideation and attempts.” Davies Decl., SA-138, ¶ 18; *see also* Drescher Decl., SA-13, ¶ 24 (“LGBT youth are overrepresented in foster care, juvenile detention, and among homeless youth, often because parents who cannot accept children who are gay or gender variant throw them out of the home.”).

This is particularly true where LGBTQ youth are seen as “failing” or being “unsuccessful” at change efforts. As Glassgold reported, “sexual orientation change efforts can drive parents and kids apart and have long-lasting negative effects on their relationships, *particularly when the kids ‘fail’ at sexual orientation change efforts.*” Glassgold Interview (emphasis added). “Failure,” however, is practically a foregone conclusion. “[T]herapists who practice change efforts provide false promises to parents that if they take the child to therapy everything will be ‘okay.’” *Id.* According to Glassgold,

Family non-acceptance is a strong driver of problems in [LGBTQ] children, from depression, anxiety, and acting out, to running away and homelessness. There may be LGBTQ youth who feel forced to undergo [SOCE] treatments, feel unwelcome in their own homes, and may run away seeking a more positive environment.

Id. Further, Glassgold noted that the desired outcome of SOCE is rarely, if ever, achieved. “Children will not be converted” and “[s]exual orientation change efforts fail in 99% of the cases.” *Id.* The detrimental result of SOCE attempts and

near-inevitable failures is twofold: the children feel even greater pressure, “want[ing] the love and acceptance of their parents,” while parents feel regret and guilt that their children feel that “failure,” and that they [the parents] were misled by practitioners. *Id.* Indeed, SOCE “dashes the hopes of kids and parents who are also vulnerable and prone to exploitation by [SOCE] practitioners.” *Id.*

While it is sometimes too late for many parents who ultimately recognize the harms imposed by SOCE on their LGBTQ children to rescue their relationships with their children, (*see supra* Section I.A), some parents realize sooner. Bond recounted an experience from his private practice where he met with a 17-year-old gay male. The boy’s mother was “confused” by her son’s sexual orientation, and the boy recounted feelings of rejection that fed a substance abuse problem. Bond Interview. The story had a better ending than others, because the boy’s mother realized that the change needed to help her son was her own. Bond reported that “[o]ften parents really want to help their kids who are questioning their sexual orientation but don’t know what to do. These parents are at risk of being taken advantage of by therapists with an agenda, because the parents are vulnerable as well.” *Id.* In fact, many parents report regret over trying to change the sexual orientation of their children, rather than accept their children for who they are. They “feel guilty that they were misguided [and are] angry at the practitioner for misleading them and wasting their resources.” *Id.*

Motivated by innumerable stories of how SOCE has torn apart families with LGBTQ youth like those described above, for more than a decade *amicus* PFLAG has served as a national resource organization for people confronting SOCE.⁴ For example, Huckaby worked with 16-year-old Zach, a teen who drew national attention when Zach blogged from a SOCE “camp” that his parents forced him to attend.⁵ Huckaby Interview II. Huckaby has since assisted PFLAG chapter members who peacefully protest reparative therapy “road shows” and offer LGBTQ-affirming materials and support. He recalled “defiant parents with adolescent children with looks of panic, terror, humiliation—or worse, in tears.” *Id.* Huckaby further reported that he is nonetheless inspired when a few parents take the materials PFLAG offers. “The parents want the facts,” he said. “That is good.” *Id.*

⁴ See, e.g., PFLAG, *Advocacy & Issues: “Reparative Therapy,”* <http://community.pflag.org/page.aspx?pid=503> (general webpage on PFLAG’s position on “reparative therapy”); PFLAG, National Policy Statement, *Treatment to Alter Sexual Orientation or So-Called “Reparative or Conversion Therapies,”* <http://community.pflag.org/page.aspx?pid=282#G> (adopted Jan. 17, 2000); PFLAG, *Get Support: “Dos & Don’ts for Families and Friends,”* <http://community.pflag.org/page.aspx?pid=541> (resource for family and friends based on common themes that come up when LGBTQ people come out to friends and families); PFLAG, *Get Support: “Frequently Asked Questions,”* <http://community.pflag.org/page.aspx?pid=290> (resource providing answers to questions that people typically have on learning that a friend or family member is LGBTQ).

⁵ Alex Williams, *Gay Teenager Stirs Storm*, N.Y. Times, http://www.nytimes.com/2005/07/17/fashion/sundaystyles/17ZACH.html?pagewanted=all&_r=0 (July 17, 2005).

PFLAG continues to dedicate significant technical assistance to keep its chapter leaders well informed. “Reparative therapy is an industry created to codify family rejection of LGBT people,” said Huckaby. *Id.*; *see also* Telephone Interview with J. Huckaby (Jan. 24, 2013) (hereinafter, “Huckaby Interview I”). Noting that “research bears out” the significance of family rejection, he calls SOCE “devastating when considered by the family [leading] to drug abuse, alcohol abuse, HIV, STDs, suicide or suicide attempts. It is devastating to the bond of parents and children, especially if the child went unwillingly.” Huckaby Interview I; Huckaby Interview II.

LGBTQ young people who themselves seek out SOCE do not do so in a vacuum. They engage in these practices because of “external pressures from parents and family members, peers, teachers and clergy,” and these young people are coming from a place of a “deeply-held fear of rejection.” Glassgold Interview.

PFLAG counts among its members many parents who have seen “firsthand how damaging this so-called ‘reparative therapy’ has been to their children.” PFLAG, *Faith In Our Families*, at 18, http://seattle-pflag.org/pflag/wp-content/uploads/2011/04/Faith_Families.pdf. Huckaby stresses not only the direct harm experienced by children who endure SOCE, but also the “shame and guilt” that parents feel for having insisted that their LGBTQ children undergo change efforts. “Many parents have difficulty forgiving themselves for what they put their

LGBTQ kids through, even when the kids have forgiven the parents.” Huckaby Interview II.

In short, “kids want the love and acceptance of their parents and don’t want to let their parents down, yet the kids cannot change their sexual orientation.” Glassgold Interview. Thus, LGBTQ youth and their parents and families are set up for failure by SOCE and the therapists who engage in the practice, and the adverse effects of change efforts are real and long-lasting. SOCE strains familial bonds, generates guilt among parents and children, and harms the ability of SOCE survivors to build healthy relationships in the future.

E. Sexual orientation change efforts have far-reaching societal consequences.

Beyond the harm to the individual patients and their families, the effects of SOCE increase the burden on state and federal agencies dealing with LGBTQ youth. “LGBT youth are overrepresented in foster care, juvenile detention, and among homeless youth, often because parents who cannot accept children who are gay or gender variant throw them out of the home.” Drescher Decl., SA-13, ¶ 24. In fact, LGBTQ youth represent a staggering 40% of the 1.6 to 2.8 million youth who run away or are turned out of their homes per year. *See* H. Hammer, D. Finkelhor, & A. Sedlak, *Runaway/Thrownaway Children: National Estimates and Characteristics. National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children* (Oct. 2002), <https://www.ncjrs.gov/pdffiles1/ojjdp/>

196469.pdf; L. Durso & G. Gates, The Williams Institute, *Serving Our Youth: Findings from a National Survey of Service Providers Working with Lesbian, Gay, Bisexual, and Transgender Youth who are Homeless or At Risk of Becoming Homeless* (2012), at 4, <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf> (hereinafter, “Durso & Gates”).

Nearly seven in ten homeless youth indicated that family rejection was a major factor contributing to LGBTQ youth homelessness. Durso & Gates, at 4. SOCE treatments “encourage family rejection and undermine self-esteem” and dramatically increase the likelihood that the patient will end up homeless or in the state system. Davies Decl., SA-138, ¶18 (citing Adelson, *supra*, at 968). In fact, LGBTQ youth represent between 30% and 43% of those served by drop-in centers, street outreach programs, and housing programs, which costs the state millions of dollars each year. *See* S.B. 1789, 208th Leg. Sess. (N.J. 1999) (appropriating \$1M to programs under the New Jersey Homeless Youth Act)

Due to the high rates of family rejection, a disproportionately large number of LGBTQ youth also end up in the state foster care system. James W. Gilliam Jr., *Toward Providing a Welcoming Home for All: Enacting a New Approach to Address the Longstanding Problems Lesbian, Gay, Bisexual, and Transgender*

Youth Face in the Foster Care System, 37 LOY. L.A. L. REV. 1037 (2004). “Because gay, lesbian, and gender-nonconforming adolescents commonly find themselves disapproved of and overtly rejected by their own families, they are more likely to be forced from their homes to become part of the foster care, runaway, and ‘throwaway’ populations.” Colleen A. Sullivan, *et al.*, Lambda Legal Defense and Education Fund, *Youth in the Margins: a Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender Adolescents in Foster Care*, 9 (2001). Indeed, “there is a link, perhaps a very strong one, between a child’s sexuality, the ability of families to cope with a gay child, and the likelihood of entry into [the foster care] system.” Colleen A. Sullivan, *Kids, Courts, and Queers: Lesbian and Gay Youth in the Juvenile Justice and Foster Care Systems*, 6 TUL. J. L. & SEXUALITY 31, 35 (1996).

In addition, the increased risk of homelessness and lack of family support facing LGBTQ youth “increases the risk of their involvement in the juvenile justice system and negatively impacts their cases.” Legal Services for Children, National Juvenile Defender Center, and National Center for Lesbian Rights, *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts*, http://www.equityproject.org/pdfs/hidden_injustice.pdf (2009). In particular, youth who experience conflicts at home because they are LGBTQ are at risk of entering the system for status offenses, domestic disturbances, and survival

crimes, such as shoplifting and prostitution. *Id.* Once LGBTQ youth have contact with the system, lack of family support “increases the likelihood of formal processing rather than diversion, detention, and punitive dispositions.” *Id.*

Family rejection, including SOCE, significantly increases the risk that LGBTQ youth will become homeless, enter the foster care system, and/or end up in juvenile detention facilities. By passing N.J. STAT. ANN. § 45:1-55 and preventing the use of SOCE on minors by licensed therapists, the Legislature took a significant step toward preventing LGBTQ youth homelessness, which in turn avoids the personal and societal costs of shelters, foster care, and juvenile detention.

CONCLUSION

As *Amici* detailed in accounts of their professional experiences, sexual orientation change efforts do great damage to LGBTQ youth, and in the worst cases, children who engage in SOCE take their own lives. Many SOCE survivors are forever scarred by subsequent self-inflicted harms, long-term psychological problems and an aversion to legitimate, life-saving therapies. SOCE survivors often experience irreparable rifts with family members. These ruptures leave SOCE survivors on their own, without family or other support, and often homeless or in State institutional care. Parents of LGBTQ youth are likewise victimized by SOCE practitioners who take advantage of their pocketbooks, as well as their

desperation to change their LGBTQ children. These parents may incur damage of the worst kind – permanent damage to or complete loss of relationships with their children.

The State of New Jersey enacted N.J. STAT. ANN. § 45:1-55 to protect LGBTQ youth and their families from SOCE. Accordingly, *Amici* respectfully request that the Court affirm the decision of the lower court.

March 6, 2014

Respectfully submitted,

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EXHIBIT A – AMICI’S STATEMENTS OF INTEREST

Parents, Families and Friends of Lesbians and Gays (PFLAG), founded in 1972 with the simple act of a mother publicly supporting her gay son, is the original family and ally organization. Made up of parents, families, friends, and straight allies uniting with LGBT people, PFLAG is committed to advancing equality through its mission of support, education and advocacy, with more than 350 chapters and 200,000 supporters crossing multiple generations of American families in major urban centers, small cities and rural areas in all 50 states.

The vision of PFLAG recognizes that only with respect, dignity and equality will people of diverse sexual orientations and gender identities reach their full identity as human beings. Our mission is to promote the health and wellbeing of lesbian, gay, bisexual and transgender persons, their families and friends, through support, to cope with an adverse society; education, to enlighten an ill-informed public; and advocacy, to end discrimination and to secure equal civil rights. PFLAG provides opportunity for dialogue about sexual orientation and gender identity, and acts to create a society that is healthy and respectful of human diversity.

The Trevor Project, founded in 1998, is the leading national organization providing crisis intervention and suicide prevention services to lesbian, gay, bisexual, transgender and questioning (LGBTQ) young people under 24. The Trevor Project saves young lives through its free and confidential lifeline and instant messaging services, in-school workshops, educational materials, online resources and advocacy. An appointed member of the National Action Alliance for Suicide Prevention, The Trevor Project contributed to creating the federal National Suicide Prevention Plan and has been honored by the White House as a “Champion of Change.” Having received the highest level of accreditation from the American Association of Suicidology, The Trevor Project interacts with more than 100,000 LGBTQ youth each year through the free and confidential Trevor Lifeline and TrevorChat intervention services; the social network TrevorSpace; and Trevor Lifeguard Workshops and Survival Kits in schools.

The youth served by The Trevor Project are at a heightened risk of harming behaviors, including attempting suicide, because they often face rejection, prejudice, fear and hate from peers or family, and as a result tend to lack appropriate access to mental health care. To ensure the LGBTQ youth who reach out to The Trevor Project for help receive the best possible care, the organization follows accredited best practices to refer youth in crisis only to reputable centers for appropriate treatment and mental health services. The Trevor

Project's staff and paraprofessionals have observed the damaging impact of sexual orientation change efforts (SOCE) on LGBTQ youth, and the organization strongly supports N.J.S.A. 45:1-54, -55.

Truth Wins Out (TWO), founded in 2006, is a nonprofit organization that monitors anti-LGBT organizations and documents their misinformation campaigns. TWO considers sexual orientation change efforts or "ex-gay" programs a politically motivated consumer fraud designed to exploit vulnerable clients for financial gain, distort public opinion, and help pass antigay legislation. Such groups consistently make reckless, irresponsible, and false claims about sexual orientation that are specifically designed to stigmatize an entire class of people.

TWO offers Web advocacy; rapid response media campaigns; a speaker's bureau; and original research. It is our view that attempts to change sexual orientation are discriminatory by definition, uniformly unsuccessful and medically unsound. TWO aims to end the dangerous practice of "ex-gay" therapy in all of its injurious forms. The organization tirelessly advocates against such programs, vigorously disseminates educational material, and doggedly pursues actions that will help eliminate the ex-gay myth. TWO's goal is to create a world where LGBT individuals can live openly, honestly and true to themselves.

The Lesbian, Gay, Bisexual & Transgender Community Center in New York City ("The Center") is the largest LGBT multiservice organization on the East Coast and the second largest LGBT community center in the country, offering many programs for the LGBT community, including Center Youth. The Center's services for LGBT youth began in 1989, offering crisis-intervention services, youth development programming, HIV and substance abuse prevention, and positive social alternatives to young people. The Center serves more than 1,000 youth in the tri-state area annually. The Center also helps other community-based organizations, government agencies and institutions develop the cultural competency necessary for working with LGBT youth and young adults to address the damage caused by discrimination based on sexual orientation and gender identity. Many of our staff have observed first-hand how LGBT youth have been seriously harmed by sexual orientation change efforts, and how well-meaning parents can be especially susceptible to the supposed benefits of these harmful practices.

Dr. Judith Glassgold, PsyD, is a licensed psychologist in New Jersey, and had an independent professional psychology practice in the state from 1991 until 2009, where she specialized in gender issues in psychotherapy, lesbian, gay, bisexual and

transgender issues, and the assessment and treatment of trauma in children. She has authored publications on ethical issues and affirming cognitive behavioral therapy in psychotherapy with lesbian, gay and bisexual clients. Dr. Glassgold currently serves as the Associate Executive Director of the American Psychological Association, where she leads and supervises staff on policy areas that include children, youth and families, lesbian, gay, bisexual and transgender issues, and HIV/AIDS.

Israel Martinez, LCSW, holds a Master's degree in social work and is a licensed private psychotherapist in Montclair, New Jersey. His entire practice serves LGBT individuals (adolescents and adults) and couples dealing with issues related to gender identity, depression, anxiety, substance abuse, self-esteem, HIV/AIDS, and sexual orientation. Mr. Martinez previously served as a clinical social worker for the Coalition for Hispanic Family Services, in Brooklyn, New York, as well as for Gay Men's Health Crisis, and as a social work consultant for The Lesbian, Gay, Bisexual & Transgender Community Center in New York City.

CERTIFICATE OF COMPLIANCE

The undersigned certify that this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure (“F.R.A.P.”) 32(a)(7)(B) because this brief contains **6,008** words, exclusive of those parts of the brief exempted by F.R.A.P. 32(a)(7)(B)(iii), as counted by the 2010 Microsoft Word word-processing program used to generate this brief. The undersigned further certify that this brief complies with the typeface requirements of F.R.A.P. 32(a) (5) and the type style requirements of F.R.A.P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using 2010 Microsoft Word with a 14-point Times New Roman font.

March 6, 2014

Respectfully submitted,

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CERTIFICATE OF BAR MEMBERSHIP

Each of the undersigned hereby certifies that s/he is a member of the Bar of the United States Court of Appeals for the Third Circuit.

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Third Circuit by using the appellate CM/ECF system on March 6, 2014. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system

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VIRUS CERTIFICATION & IDENTICAL COMPLIANCE OF BRIEF

I, Samantha Collins, hereby certify that:

The electronic version of this brief is identical to the text version in the paper copies filed with the court. This document was scanned using CA Software Anti-Virus Release 8.3.02 (with updated virus definition file as of March 6, 2014) and no viruses were detected.

Dated: March 6, 2014
New York, New York

/s/ Samantha Collins
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