

YOUTH SERVICES POLICY

Title: Non-Discriminatory Services to Lesbian, Gay, Bisexual, Transgender, Intersex, Questioning (LGBTIQ), and Nonconforming Youth	Type: B. Classification, Sentencing and Service Functions Sub Type: 2. Classification Number: B.2.20
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References: See Attachment (a) – “References”	
STATUS: Approved	
Approved By: <i>James Bueche, Ph.D., Deputy Secretary</i>	Date of Approval: 08/14/2019

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish guidelines and operational practices in accordance with the U.S. Department of Justice (DOJ) “Prison Rape Elimination Act” (PREA) Standards, which will allow youth in the custody of OJJ to live free of harassment and discrimination, as well as to ensure a healthy and safe environment that allows for fair and equal access to all available services. Further, to create and maintain an organizational culture that provides respect for the dignity of all youth and their families, despite sexual orientations and gender identities.

III. APPLICABILITY:

All YS employees, contract providers and volunteers, and all youth within the custody of YS, and their family.

Facility Directors and Regional Managers are responsible for ensuring established procedures are adhered to.

IV. DEFINITIONS:

Bisexual - A person who is emotionally, romantically, and sexually attracted to both males and females.

Cisgender – Describes people whose gender identity matches their sex assigned at birth.

Discrimination - Any act, policy or practice that, regardless of intent, has the effect of subjecting any youth to non-beneficial differential treatment as a result of that youth's actual or perceived sexual orientation or gender identity.

Gay – A boy or man who primarily is emotionally, romantically and sexually attracted to individuals of the same sex.

Gender Identity - A person's internal, deeply felt sense of being male or female, regardless of the person's assigned sex at birth.

Gender Dysphoria (DSM_V) – A condition recognized and described by the American Psychiatric Association in the current version of the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, (DSM-5). The DSM-V provides diagnostic criteria that must be present for a diagnosis, i.e. the finding of "...marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months duration..."; and that the condition is associated with clinically significant distress or impairment in social, school (for children)/occupational (for adults), or other important areas of functioning (WP Policy & Procedure No. G-02A).

Gender Nonconforming – A person whose appearance or manner does not conform to traditional societal gender expectations.

Harassment - Includes but is not limited to: repeated and unwanted name calling; disrespectful gestures, jokes or comments; inappropriate touching; threats of physical or emotional acts, or negative consequences (including religious condemnation); physical abuse; sexual abuse; including unwanted sex acts; touching, pantomime and threats; and emotional abuse, such as shunning or isolation. Attempting to change a youth's sexual orientation or gender identity is also a form of harassment.

Intersex – A person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Lesbian -- A girl or woman who is primarily emotionally, romantically and sexually attracted to girls or women.

LGBTIQ -- Youth who have identified themselves as lesbian, gay, bisexual or transgender, intersex or questioning their sexual orientation, or gender nonconforming youth.

Prison Rape Elimination Act (PREA) - An Act signed into law by President George W. Bush in September 2003. This legislation requires the Bureau of Justice Statistics (BJS) to initiate new national data collections on the incidence and prevalence of sexual violence within correctional facilities. PREA defines four categories of sexual abuse for purposes of data collection: abusive sexual contacts, nonconsensual sexual acts, staff sexual harassment and staff sexual misconduct.

Questioning - Refers to a person, often an adolescent, who is exploring or questioning issues of sexual orientation or gender identity or expression in his or her life. Some questioning people will ultimately identify as gay, lesbian, bisexual or transgender; others will ultimately self-identify as heterosexual.

Sexual Abuse - Any sexual activity that has been deemed improper or harmful between an adult and minor or two or more minors by the Prison Rape Elimination Act (PREA), state or local laws, and Agency policy with or without the consent of the victim.

Sexual Assault Response Team (SART) – A team of individuals made up of administrative, medical, mental health, and investigative services staff at a secure care facility who are tasked with monitoring the agency’s coordinated response following a sexual assault incident in order to ensure the effectiveness of treating and collecting evidence from alleged victims. SART team members also review cases following an alleged incident of sexual abuse against a youth in order to make recommendations about the safety, mental health and medical needs of the alleged victim, and to make sure the youth’s needs are being met. In addition, SART members make recommendations to the Facility Director, Agency PREA Coordinator, PREA Compliance Manager and appropriate Regional Director concerning any policy or procedural changes that may need to occur to prevent further sexual assaults at the facility.

Sexual Orientation - A person’s emotional, romantic, and sexual attraction or interests towards individuals of the same sex different sex or both sexes.

Shelter Care Program – A specialty program located at the Swanson Center for Youth (SCY), which provides supportive services for youth who have been described as emotionally and physically vulnerable, and are a high risk for becoming a chronic victim at the hands of other youth.

Transgender - A person whose gender identity (their understanding of themselves as male or female) does not correspond with their birth/assigned sex.

Training Records Entry Completed (TREC) - A database used to track training hours of agency employees at some secure care facilities.

Unusual Occurrence Report (UOR) - A document that must be completed by staff to report incidents or observations of events that may have an impact on any aspect of the agency. UOR forms shall be made available to all employees, working all areas at all times. Employees must complete and submit a UOR prior to the end of their tour of duty on the day the incident was observed or comes to the employee's attention in any way. If a UOR form is not available, the employee must use any paper available to report the pertinent information. UORs may also be submitted by email. (Refer to YS Policy No. A.1.14)

V. POLICY:

It is the Deputy Secretary's policy that rules and procedures shall be established to ensure that staff provide high quality individualized services that are fair and equal, based on best professional practice, free of bias, and provided in a confidential manner to youth in the custody of YS.

In addition, employees, contract providers and volunteers shall not discriminate against or harass youth in their care for any reason, including their perception of the youth's sexual orientation or gender identity. Employees should protect youth from discrimination of all kinds, as well as verbal, physical and sexual harassment or sexual abuse from others.

YS shall take all reasonable steps within its control to meet the diverse needs of all secure care youth by providing an environment in which all individuals are treated with respect and dignity, regardless of sexual orientation or gender identity.

Unless otherwise stated in this policy the guidelines established in YS Policy No. C.2.11 for all YS secure care facilities shall be adhered to.

VI. PROCEDURES

A. Direct Intake Procedures:

1. The direct intake interview shall take place in private in an effort to make youth as comfortable as possible about providing information which may be of a sensitive nature, and to encourage honesty and ensure confidentiality.
2. During the direct intake process, staff shall consider whether the youth *is* or *could be* perceived to be LGBTIQ or gender nonconforming by observing and discreetly inquiring about any gender nonconforming appearance or manner or identification as LGBTIQ, and whether the youth may therefore be vulnerable to sexual abuse.

3. Information received from youth during the direct intake process concerning their LGBTIQ or gender nonconforming status shall be indicated on the “Summary Admission Report” in JETS within 24 hours of receipt of the information. YS/OJJ shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to U.S. DOJ Standard 115.341, in order to ensure that sensitive information is not exploited to the youth’s detriment by staff or other youths.
 4. If the youth discloses identification as LGBTIQ during intake, staff should respond supportively and use the opportunity to explore the youth’s concerns and needs.
 5. During a regular scheduled medical examination conducted in private by the contracted healthcare provider (CHP), information may be obtained that identifies and/or confirms a youth as transgender or intersex, and/or a discovery is made that a youth’s genital status differs from information given at intake screening. The results of the medical examination shall be reported to the Facility Director/designee, the Facility Treatment Director, the appropriate Regional Director, and the Director of Rehabilitation and Treatment must be notified immediately by the CHP of the youth’s placement at the facility to ensure the youth’s safety.
 6. Notifications shall be followed by an Unusual Occurrence Report (UOR) within 24 hours of the initial notification by the CHP.
 7. During the direct intake process, staff shall verbally inform all youth of their rights and responsibilities under this policy as well as the facility’s Standard Operating Procedures (SOPs). Staff shall share YS’ support of providing a safe and abuse free environment for LGBTIQ or gender nonconforming youth, to include educating them about PREA, and the appropriate procedures to report sexual abuse or sexual harassment from youth or staff if it were to occur, pursuant to YS Policy No. C.2.11.
 8. Pursuant to YS Policy Nos. B.5.3 and C.2.11, the Administrative Remedy Procedure (ARP) shall not contain a time limit on when a youth may submit a grievance regarding an allegation of sexual abuse.
- B. LGBTIQ or Gender Nonconforming Youth Placement:
1. Placement decisions for LGBTIQ or gender nonconforming youth shall occur within 72 hours after the LGBTIQ or gender nonconforming status is known to prevent any possible risks to the youth while awaiting a placement decision, pursuant to YS Policy Nos. B.2.3 and C.2.11.

2. As with all youth, LGBTIQ and gender nonconforming youth shall not be treated or classified upon intake as sex offenders unless required by a court. If a staff alert is created and distributed to watch the youth for possible victimization, the alert shall not identify the youth as LGBTIQ or gender nonconforming to protect confidentiality.

All sex offender treatment shall not discriminate based on sexual orientation and gender identity, and shall not criminalize or pathologize LGBTIQ or gender nonconforming identity.

3. LGBTIQ or gender nonconforming youth shall not be placed in particular housing, bed or other assignments solely on the basis of such identification or status, nor shall YS consider this an indicator of likelihood of being sexually abusive.
4. When making placement and programming assignments, YS shall consider on a case-by-case basis whether the placement will ensure the youth's health and safety, and whether the placement would present management or security problems.
5. YS shall not base housing decisions on the complaints of staff or other youth when those complaints are based solely on the gender of the youth's gender identity or gender expression.
6. LGBTIQ or gender nonconforming youths own views, with respect to his or her own safety, shall be given serious consideration during the placement process.
7. Following an individual staffing, placement shall be determined on an individual basis.
8. During the initial staffing, all placement decisions made shall take into account the individualized needs of the youth, and shall prioritize the youth's physical and emotional well-being to include the consideration.
9. LGBTIQ or gender nonconforming youth shall not be placed in room restriction for a period exceeding 48 hours as a means of keeping them safe from discrimination, harassment or abuse, unless temporarily used to protect the youth from immediate harm.

Consideration for room restriction of the alleged abuser or harasser of the youth shall be considered first, if it is deemed an emergent need to separate an LGBTIQ youth for reasons of safety.

10. Prior to an LGBTIQ or gender non-conforming youth being placed in room restriction as a means of keeping them safe from discrimination, harassment or abuse, the Facility Director/designee, the appropriate Regional Director, and the Director of Rehabilitation and Treatment must be notified.

Reasons for placement must be documented in JETS, including exploration of alternatives and a staffing held as soon as possible, but no later than 48 hours to determine future housing plans/placement options.

Participants of the case staffing shall include, but are not limited to the following:

- a) Facility Director/designee;
- b) Facility Treatment Director;
- c) Youth's Case Manager;
- d) Medical/Mental Health staff;
- e) Investigative Services (IS);
- f) Appropriate Regional Director;
- g) Director of Rehabilitation and Treatment; and
- h) Youth's Probation and Parole Officer/Juvenile (PPO/J)

If continued separation of an LGBTIQ or gender nonconforming youth is determined appropriate following the staffing, a reassessment must be conducted every 30 days to review the continued need for separation.

11. Housing assignments of all LGBTIQ and gender nonconforming youth shall be reassessed quarterly to determine placement appropriateness, pursuant to YS Policy No. B.2.2.

Participants of the reassessment staffing shall include those staff identified in B.9 above. Results of the reassessment must be documented in JETS within seven (7) working days.

12. However, reassessments shall occur within 48 hours following a report by a youth or staff of an alleged incident of sexual harassment or abuse, or if an LGBTIQ or gender nonconforming youth makes a request for housing re-consideration.

C. Clothing and Grooming

1. Prior to issuing any clothing, personal hygiene items and grooming products consistent with a youth's gender identity and gender expression, approval must be obtained from the Regional Director or designee.

2. Clothing, undergarments, personal hygiene items, and grooming products must be consistently applied to all youth and must be issued only absent any reasonable safety concerns.

Once approved by the Regional Director or designee:

3. Staff shall provide youth with clothing and undergarments consistent with their gender identity and gender expression as requested, regardless of their housing assignment.

Staff shall provide youth with personal hygiene items and grooming products consistent with a youth's gender identity and gender expression, regardless of their housing assignment.

D. Mental Health Treatment of LGBTIQ and Gender Nonconforming Youth

1. If a youth discloses that he is LGBTIQ or gender nonconforming while in secure care, the youth shall be offered the opportunity for appropriate counseling and information to support individual, family and health issues by a qualified clinician, who is either a contract provider or OJJ mental health professional.
2. If the clinician, teacher or JJS staff whom the youth discloses sexual orientation or gender identity information to is not qualified to render the services desired or necessary, the youth shall be referred to the facility Treatment Director, who shall assign a qualified staff, or make a referral to an appropriate contract provider mental health staff trained to provide counseling and/or education to LGBTIQ or gender nonconforming youth.

If a youth discloses that he/she is transgender or intersex, a referral must be made to the CHP medical/health care staff for an appropriate medical evaluation and confirmation, and then to a trained mental health professional for an evaluation to determine if the youth is experiencing Gender Dysphoria and treatment plan development.

3. Transgender youth who are currently on hormone treatment at the time of placement in the custody of YS shall be referred to a qualified clinician for determination as to whether hormone therapy should / must continue while in YS custody.

E. Confidentiality

1. Staff shall not disclose a youth's sexual orientation or gender identity to other youth at the facility or to outside parties, individuals, the court or outside agencies such as health care, social services providers or the youth's family

and friends without the youth's permission, unless such disclosure is necessary to comply with state or federal law, and shall be limited to only the information necessary to achieve the specific beneficial purpose.

2. Staff shall ensure that confidential information regarding the youth's gender identity or identification as LGBTI is not inadvertently shared on documentation with parties outside of the facility (e.g., incident reports, behavioral reports, status reports, emails, etc.).
3. This confidentiality restriction does not prevent staff from discussing youth's treatment needs or services with other staff on a need to know basis.
4. In addition, staff shall explain the limits of staff's ability to restrict youth's LGBTI status and disclose to youth that confidentiality does not preclude the release of sexual orientation and gender identity information to mental health and medical staff personnel.

F. Searches of LGBTIQ or Gender Nonconforming Youth

1. All youth searches shall be conducted pursuant to the guidelines established in YS Policy Nos. C.2.3 and C.2.11.
2. Physical searches of LGBTIQ or gender nonconforming youth shall be performed in a professional manner that is not humiliating or degrading, and shall not be conducted for the sole purpose of determining the youth's physical anatomy.
3. If a youth's genital status is unknown, it may be determined during conversations with the youth, by reviewing medical records, or if necessary, by learning that information as part of a broader medical examination conducted in private by a CHP medical staff member. Pursuant to YS Policy Nos. C.2.3 and C.2.11, searches or medical exams of transgender or intersex youth shall not be performed for the sole purpose of determining a youth's genital status.
4. Youth confirmed as transgender or intersex shall be asked to identify the gender of staff with whom they would feel more comfortable conducting searches. The request shall be documented on the attached "Statement of Search and/or Drug/Alcohol Screen Preference Form" [see Attachment B.2.20 (b)]. Appropriate staff shall be notified of this fact in a respectful and appropriate manner. The form shall be maintained in the youth's Master Record under Clip IV. The facility shall accommodate this request when possible and consistent with maintaining the security of the facility.

G. Drug Testing of LGBTIQ or Gender Nonconforming Youth

1. When a staff member is required to watch a LGBTIQ or gender nonconforming youth submit a urine sample for a drug test, the youth confirmed as transgender or intersex may request that either a male or female staff member observe the drug test. A youth confirmed as transgender or intersex shall be asked to identify the gender of staff with whom they would feel more comfortable being observed by. The request shall be documented on the attached "Statement of Search and/or Drug/Alcohol Screen Preference Form". Appropriate staff shall be notified of this fact. The form shall be maintained in the youth's Master Record under Clip IV.
2. Procedures for Youth Drug/Alcohol testing are outlined in YS Policy No. C.2.7.

H. Procedures for Prevention of Harassment or Abuse

1. When working with youth, employees, contract providers and volunteers shall use respectful language and terminology that does not further stereotype LGBTIQ or gender nonconforming individuals. Use of terminology which openly or negatively depicts a youth's sexual orientation, gender identity, or LGBTIQ or gender nonconforming status is strictly prohibited.
2. In the course of their work, employees, contract providers and volunteers shall not refer to youth by using derogatory language in a manner that conveys bias towards, or harassment of, LGBTIQ or gender nonconforming individuals.
3. Confirmed *transgender and intersex* youth shall be provided with safety and security during shower and bathroom periods. They shall be given the opportunity to shower separately.
4. Facility healthcare and social services staff shall facilitate exploration of gender and sexuality issues as it relates to medical or mental health when appropriate to educate youth in a manner similar to all other youth: by being open and non-judgmental.
5. In accordance with accepted health care practices, the agency shall not engage in or hire mental health contractors or condone treatment strategies by its own staff that attempts to change a person's sexual orientation or gender identity.
6. LGBTIQ and gender nonconforming youth must not be made to feel that they are abnormal, bad or unacceptable, or be told by any employee, contract provider or volunteer that they can choose to change their sexual orientation or gender identity.

7. LGBTIQ and gender nonconforming youth shall not participate in sex offender treatment unless required by the court to do so, or unless they have a documented adjudication for a sex offense. All sex offender treatment shall not discriminate based on sexual orientation and gender identity, and shall not criminalize or pathologize LGBTIQ identity.
8. All youth, to include LGBTIQ and gender nonconforming youth, shall be included in and have access to educational, rehabilitative, recreational, and other programming and activities or jobs for which they qualify and show a positive interest on the same basis as other youth. Youth shall not be denied access to programming based on sexual orientation or gender identity.

I. Reporting Violations of this Policy by Staff or Youth

1. It shall be the responsibility of all YS employees, contract provider staff and volunteers to report any violations of this policy to their supervisor or appropriate facility staff. There shall be zero tolerance of any behaviors by either youth or staff which is discriminatory or harassing toward LGBTIQ or gender nonconforming youth.
2. Staff and supervisors shall take immediate action to intervene in any such instances. Failure to do so on the part of any YS employee, contract provider or volunteer may result in disciplinary action or termination of services.
3. All incidents of alleged physical, sexual abuse or harassment are to be handled pursuant to YS Policy Nos. A.1.4, C.2.11 and C.4.3.

J. Discharge Planning of LGBTIQ and Gender Nonconforming Youth

The youth's family should be encouraged to participate in the discharge planning to enhance the success of community re-entry efforts. LGBTIQ and gender nonconforming youth are frequently estranged from their family.

1. Upon discharge youth should be provided local area resources that are supportive to the needs of LGBTIQ and gender nonconforming youth.
2. If the youth has disclosed to his/her family, the Case Manager should assist families and youth in identifying supportive resources and professionals within the local area of their home, in order to create a seamless transition with adequate support systems in place when available.
3. In the event a youth's sexual orientation or gender identity has not been disclosed to the youth's family but the youth is interested in doing so, staff may work with the youth to provide services to the family with the intention of facilitating any future disclosure the youth may make to their family.

All efforts to assist shall be documented on a “Weekly Contact Progress Note” in JETS within seven (7) working days.

- 4 If the youth is stepped down to a group home or mentor home, staff shall ensure transition resources are available to assist the needs of LGBTIQ and gender non-conforming youth, pursuant to YS Policy No. C.2.11.

K. Family Members who identify themselves as LGBTIQ or Gender Nonconforming

1. All family members of a youth that identify themselves as LGBTIQ or gender nonconforming shall be treated with the same respect and dignity from staff, contract providers and volunteers, as other families.
2. Any suspected harassment or abuse of family members due to their LGBTIQ or gender nonconforming status shall not be tolerated. Such behavior shall be immediately verbally reported to a supervisor or appropriate facility personnel as soon as possible, and documented on a UOR prior to the end of the employee’s tour of duty.
3. Persons engaging in such behaviors when interacting with LGBTIQ or gender nonconforming family members shall be subject to disciplinary action.
4. Youth and their families shall be provided with the same considerations during youth visitation.

VII. TRAINING OF EMPLOYEES, CONTRACT PROVIDERS AND VOLUNTEERS

A. In order for OJJ secure care and CBS employees (full and part time), contract providers, volunteers and interns to have the awareness and capacity to effectively work with LGBTIQ and gender nonconforming youth, they shall be required to receive training on working with this youth population. This training shall focus on teaching participants:

1. The goals and requirements of the agency policy and facility SOPs regarding LGBTIQ and gender nonconforming youth;
2. How to work with LGBTIQ and gender nonconforming youth and their family members in a respectful and nondiscriminatory manner;
3. How to recognize, prevent and respond to harassment against LGBTIQ and gender nonconforming youth; and
4. Learning the close monitoring needs of these youth due to additional pressures based on their gender identity or sexual orientation; and the difficulties in coping with these challenges frequently resulting in co-morbid problems, including

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increased suicide risk, depression, anxiety, susceptibility to addictions, and poor school achievement.

- B. All secure care and CBS employees, including the facility administrative staff, shall receive training surrounding LGBTIQ and gender nonconforming youth during orientation and as part of annual in-service training requirements.
- C. Trainings shall be taught by a qualified trainer knowledgeable in working with LGBTIQ and gender nonconforming youth, approved by the Director of Treatment and Rehabilitative Services.
- D. Executive staff and Central Office employees are required to conduct an annual policy overview provided by the Staff Development Director.
- E. All training shall be documented and entered into the “Louisiana Employees Online” (LEO) and/or the “Training Records Entry Completed” (TREC) database.

Previous Regulation/Policy Number: B.2.20

Previous Effective Date: 05/11/2018

Attachments/References: B.2.20 (a) References.August 2019.docx
B.2.20 Attachment (b) Statement of Search etc. July 2015.docx

YS POLICY NO. B.2.20 REFERENCES

Non-Discriminatory Services to Lesbian, Gay, Bisexual, Transgender, Questioning (LGBTQ), and Nonconforming Youth

“Prison Rape Elimination Act” of 2003, Public Law 108-79

U.S. DOJ PREA Standards:

115.311 (a); 115.315 (e) (f); 115.331 (a); 115.341 (c); 115.342 (a), (c), (d), (e), (f), (g); 115.386 (d) (2)

ACA Standards - Performance-Based Standards for Juvenile Correctional Facilities (Fourth Edition)

4-JCF-2A-22, 4-JCF-3A-02, 4-JCF-3A-03, 4-JCF-3D-08, 4-JCF-4C-01, 4-JCF-4C-02, 4-JCF-4C-03, 4-JCF-4C-09, 4-JCF-4C-10, 4-JCF-4C-31, 4-JCF-4C-44, 4-JCF-4C-50, 4-JCF-5A-01, 4-JCF-5A-02, 4-JCF-5B-01, and 4-JCF-5B-03

YS Policy Nos.

A.1.4	"Investigative Services"
A.1.14	"Unusual Occurrence Reports"
A.2.24	"Staff Development and Training Plan"
B.2.1	"Assignment, Reassignment, and Release of Youth"
B.2.2	"Youth Classification System and Treatment Procedures"
B.2.3	"Secure Care Intake"
B.2.14	"Secure Care SAVRY"
B.5.3	"Administrative Remedy Procedure"
B.8.12	"Secure Care Youth Orientation"
C.2.3	"Searches of Youth"
C.2.7	"Youth Drug/Alcohol Testing"
C.2.11	"Prison Rape Elimination Act (PREA)"
C.4.3	"Mandatory Reporting of Abuse and Neglect of Youth"

WP Policy & Procedure

G-02A "Gender Dysphoria"

**Youth Services
Office of Juvenile Justice**

STATEMENT OF SEARCH AND/OR DRUG/ALCOHOL SCREEN PREFERENCE FORM

(This form shall be used during the Direct Admission Process.)

To be completed by Direct Intake Staff:

YOUTH'S NAME: _____

CLIENT ID #: _____

PREFERRED NAME (IF DIFFERENT FROM NAME ABOVE): _____

PREFERRED PRONOUN (i.e. He/She): _____

PREFERENCE FOR SEARCH OR DRUG/ALCOHOL SCREEN (i.e. Male/Female): _____

DATE: _____

To be completed by youth:

FEMALE _____ MALE _____

YOUTH'S SIGNATURE: _____ DATE: _____

WITNESS NAME: _____

WITNESS SIGNATURE: _____ DATE: _____