



INFORMATION PACKET

SAFE STRONG SUPPORTIVE

February 2024

Summary of child welfare class-action litigation

The use of class action litigation has been an increasingly common means to try to reform what the public perceives as failing government systems. Cases typically are built around an argument that a federal statutory or constitutional provision has been violated. *Institutional reform litigation* has been used to advocate for the reform of numerous government agencies in areas such as education, law enforcement, and health care.

In child welfare, this type of class action lawsuit is most often resolved through a consent decree or settlement agreement between the parties, or other judicial order, rather than continuing the case through trial or hearings. These approaches provide judges, independent monitors, and other oversight committees with ongoing authority to enforce the performance benchmarks. As a result, litigation is both lengthy (with the lifespan of a consent decree averaging about 15 years) and expensive (with the cost of legal fees, monitoring, and consulting fees estimated to reach or surpass \$15 million over the lifetime of a single agreement).¹

The following summary is divided into four sections (click on link to jump to each section):

[Jurisdictions operating under court oversight](#)

[Jurisdictions that have exited court oversight](#)

[Jurisdictions where litigation is pending](#)

[Jurisdictions where litigation has been dismissed](#)

The cases included in this document are those brought by or on behalf of children in foster care, seeking comprehensive system reform by addressing alleged constitutional and statutory violations of substantive and procedural rights. The information on each case includes the name of the lawsuit, the date the lawsuit was filed, a description of the case, the latest status update, and related webpages. **The information is reviewed periodically and current as of November 2023.**

Operating under court oversight

Description: Cases in this section resulted in an agreement negotiated by the parties and approved by a court, which retains authority for ongoing oversight and enforcement, or a court order.

Arizona

B.K. v. Faust (also known as B.K. v. McKay and B.K. v. Flanagan)

Filed: February 2015

About the Case

This lawsuit was brought by Children's Rights on behalf of children in Arizona's foster care system. The [complaint](#) alleged violations of federal constitutional and state statutory rights resulting from budget cuts in critical family support services. Specifically, Plaintiffs noted a severe shortage of physical, mental, and behavioral health care services for children; a shortage of family foster homes; a failure to preserve family ties once children are in foster care; and a failure to conduct timely investigations into reports that children have been maltreated while in state custody.

Status Update

In August 2020, the parties submitted their [settlement agreement](#) to the court. In October 2020, the U.S. District Court for the District of Arizona issued an [order](#) granting preliminary approval of the settlement agreement. On February 12, 2021, after a period of public comment, the court [approved](#) the settlement agreement.

Related Links:

[Children's Rights](#)

[Civil Rights Litigation Clearinghouse](#)

California (Los Angeles County)

Katie A v. Bonta

Filed: December 2002

About the Case

This class action lawsuit against the State of California and Los Angeles County was filed by the American Civil Liberties Union of Southern California and the Center for Law in the Public Interest. The suit challenged the state's longstanding practice of institutionalizing children who experienced abuse and neglect in hospitals and large group homes rather than providing services that would enable them to stay in their homes and communities. The [complaint](#) alleged violations of federal constitutional rights, the Early and Periodic Screening, Diagnostic and Treatment provisions of the Medicaid Act, and the Americans with Disabilities Act.

The court approved the settlement agreement between Los Angeles County and Plaintiffs on July 17, 2003, obligating the county to make comprehensive reforms. A specific reform included offering family-based wraparound services to children with mental, emotional, and behavioral issues, with the goal of family reunification and reducing multiple and arbitrary placements.

Status Update

The [settlement agreement](#) between the Plaintiffs and state Defendants received final approval by the court in December 2011. The terms of the order provided that the court would retain jurisdiction for 36 months after court approval of the settlement agreement.

In May 2020, following a motion by the county to terminate jurisdiction, the parties began settlement negotiations. In September 2020 the parties proposed a [modified settlement agreement](#) which, as of August 2023, was pending final approval by the federal court. Under the modified settlement agreement, the county agreed to make additional reforms to further improve the care of children and young adults in foster care with mental health needs, including increasing the availability of intensive home-based services for youth in foster care who have experienced, or are at risk of experiencing, placement disruption due to their behavior.

Related Links:

[National Center for Youth Law \(classifies case as “inactive”\)](#)

[Civil Rights Litigation Clearinghouse](#)

Florida

H.G. v. Carroll

Filed: February 2018

About the Case

This lawsuit was filed by Children’s Rights on behalf of children in foster care with cases originating in Miami-Dade and Monroe Counties. The [complaint](#) asserted that the state failed to address a known drastic shortage of foster homes and lack of mental health treatment for children in the custody of Florida’s Department of Children and Families.

Status Update

The parties entered a negotiated settlement in March 2019, which included class certification and a set of outcomes focused on placement stability, mental and behavioral health needs of children, and adequate and licensed placements. The [settlement agreement](#) received final court [approval](#) in August 2019, stipulating that compliance be monitored by an agreed-upon auditor.

Related Links:

[Children’s Rights](#)

Georgia

Kenny A. v. Kemp (Also known as Kenny A. v. Deal, Kenny A. v. Perdue)

Filed: June 2002

About the Case

This lawsuit was brought by Children’s Rights on behalf of children in foster care in Fulton and DeKalb Counties against Georgia’s Division of Children and Family Services. The [complaint](#) alleged federal and state constitutional and statutory violations resulting from excessive caseloads, inappropriate and unsafe placements, placement instability, failure to achieve timely permanency, inadequate mental health services, and lack of legal representation.

The case resulted in consent decrees in [DeKalb](#) and [Fulton](#) Counties addressing a child’s right to counsel, in addition to the general reform [consent decree](#) for the state. DeKalb County successfully exited its decree in 2008, followed by Fulton County in 2011.

Status Update

In 2016, the parties negotiated and agreed to a [modified consent decree and exit plan](#). In December 2016, the federal court acknowledged the state’s improvement and the system’s increasing stability, approving the Exit Plan to provide a pathway out of the case. The new agreement modified several of the 31 performance measures set for the agency in 2005. New Infrastructure Standards to correspond with

the state's new practice model and reform efforts were developed and amended to the Exit Plan in December 2017. The twice-annual [monitoring reports](#) continue to be filed.

Related Links:

[Civil Rights Litigation Clearinghouse](#)
[Children's Rights](#)

Illinois

Aristotle P. v. Smith (Also known as Aristotle P. v. Johnson, Aristotle P. v. McDonald)

Filed: September 1988

About the Case

Minors in foster care in the State of Illinois, represented by the Office of the Cook County Public Guardian, brought this civil rights action against officials of the Illinois Department of Children and Family Services (DCFS). The lawsuit challenged the DCFS practice of placing siblings in separate foster homes and denying them visitation, alleging various constitutional violations. In March 1994, a [consent decree](#) was entered.

Status Update

The decree has been extended multiple times, most recently in 2015. In 2017, Plaintiffs filed a motion to extend the consent decree. The deadline for Defendants to submit a response to the motion has been extended. As of August 2020, the docket does not indicate whether the response was filed by the deadline.

Related Links:

[Civil Rights Litigation Clearinghouse](#)

Illinois

B.H. v. Smith (Also known as B.H. v. Johnson, B.H. v. McDonald)

Filed: June 1988

About the Case

This case was brought by the American Civil Liberties Union on behalf of all children who were or would be in the custody of the Illinois Department of Children and Family Services (DCFS). The [complaint](#) charged DCFS with failure to provide services to the children in its care in violation of rights guaranteed by the Fourteenth Amendment of the U.S. Constitution and the Adoption Assistance and Child Welfare Act of 1980.

Status Update

In September 2016, the federal court approved a proposed [implementation plan](#) in the ongoing litigation designed to ensure that placements and services for those children under the care of DCFS meet appropriate constitutional standards. This amended and revised implementation plan represented a core component of the overarching DCFS strategic plan: it set forth the specific steps DCFS would take to address the specific needs of children and youth in care with psychological, behavioral, or emotional challenges. In December 2018, a Special Master was appointed by the court to assist the parties in mediation and dispute resolution.

Related Links

[American Civil Liberties Union](#)
[Civil Rights Litigation Clearinghouse](#)

Kansas

M.B. v. Howard (Also known as M.B. V. Colyer)

Filed: November 2018

About the Case

Kansas Appleseed, the National Center for Youth Law, and Children's Rights filed a lawsuit on behalf of children in foster care in Kansas. The [complaint](#) alleged that the state violated the federal constitutional and statutory rights of children in foster care by placing them in inappropriate placements and subjecting them to multiple placement moves unnecessarily. The complaint also alleged that the Kansas Department of Children and Families failed to provide children in foster care with mental and behavioral health services and treatment as mandated by the federal Medicaid Act.

Status Update

In July 2020, the parties reached a [settlement agreement](#), which included goals for improvements and required changes from state agencies. Under the agreement, the state is required to end the practice of housing children in offices and hotels as temporary placements. The court approved the settlement agreement in January 2021.

Related Links

[Children's Rights](#)

[Civil Rights Litigation Clearinghouse](#)

Maryland

L.J. v. Massinga

Filed: December 1984

About the Case

The Public Justice Center filed a lawsuit against Maryland's Department of Human Services and the Baltimore City Department of Social Services on behalf of children in foster care. The complaint alleged constitutional and statutory violations resulting from systemic deficiencies in the Baltimore City foster care system. Specific claims cited to inappropriate and unsafe placements, inadequate medical care, and a lack of family foster home capacity.

Status Update

In April 1988, the parties submitted a settlement agreement outlining strategies for making improvements to the foster care system, including caseload limits, strengthening family support and preservation services, increasing foster home capacity, and ensuring children's medical needs are met. The U.S. District Court for the District of Maryland approved the settlement as part of a consent decree in September 1988. In 1991, a modified consent decree expanded the class to children placed in unlicensed placements with relatives.

A second modified consent decree was [approved](#) by the court in October 2009. The consent decree required the use of an Independent Verification Agent to verify the Defendants' compliance and provide feedback for quality improvement purposes. The Defendants are to provide timely and reasonable access to information to the Plaintiffs' counsel and submit a report every six months to the court and the Plaintiffs. Exit from court supervision of the active consent decree will not occur until compliance with 40 exit standards has been met for 18 consecutive months, which the state has yet to do.

Related Links

[Civil Rights Litigation Clearinghouse](#)

Maryland

Y.A. v. Padilla

Filed: January 2023

About the Case

The ACLU of Maryland, Children's Rights, and Disability Rights Maryland filed a class action lawsuit on behalf of three minors in the care of the Department of Social Services of three different Maryland counties (Prince George's, Baltimore, and Howard). The lawsuit was filed against the Secretary of the Maryland Department Human Services and the Executive Director of the Maryland Social Services Administration, both in their official capacities. The [complaint](#) alleged that the Defendants failed to adequately implement an oversight system regarding the use of psychotropic medication for children in foster care, resulting in high rates of medication use — sometimes even resulting in children being prescribed multiple medications at once. Additionally, the complaint alleged inadequate medical records, inadequate informed consent, and inadequate secondary review as a basis for the Plaintiffs' claims.

Status update

The case is now awaiting review from the U.S. District Court for the District of Maryland.

Related Links

[Children's Rights](#)

Michigan

Dwayne B. v. Whitmer (Also known as Dwayne B. v. Snyder and Dwayne B. v. Granholm)

Filed: August 2006

About the Case

Children's Rights filed a federal lawsuit against state officials in Michigan alleging violations of the constitutional, federal statutory, and federal common law rights of children in foster care. The [complaint](#) alleged that the state failed to move children quickly into safe, permanent homes; provide children with adequate medical, dental, and mental health services; or prepare children to live independently as adults after exiting the foster care system. The lawsuit further claimed that poor management, underfunding, and understaffing of Michigan's child welfare system put the children in its custody at risk of serious harm.

Status Update

The parties originally settled the case in 2008, and the U.S. District Court for the Eastern District of Michigan approved an implementation, sustainability and exit plan in 2011. In February 2016, the parties jointly submitted to the court a modified [implementation, sustainability and exit plan](#) that established a path for the improvement of Michigan's child welfare system. The agreement included various outcome measures to be achieved and maintained by specific dates tailored to each measure.

In June 2019, the federal court approved a second modified [implementation, sustainability and exit plan](#) between the parties, reflecting a number of changes sought by Defendants. Examples included eliminating the state's time-consuming compliance reviews of cases over two years old, re-focusing efforts to prevent child maltreatment, and shifting efforts for older youth from documenting planning activities to getting youth into effective programs. The Defendants will exit monitoring once they have met all the performance requirements of the settlement agreement and have maintained compliance for 18 months.

Related Links

[Civil Rights Litigation Clearinghouse](#)

[Children's Rights](#)

Minnesota (Hennepin County)

T.F. v. Hennepin County

Filed: May 2017

About the Case

A Better Childhood filed a federal class actions lawsuit on behalf of children who are or will be the subject of reported child abuse or neglect, who are or will be under the protective supervision/in the custody of Hennepin County, or who are under the guardianship of the Commissioner of Human Services. The [complaint](#) alleged that the county failed to investigate reports properly, provide safe and appropriate placements, provide appropriate services to children and families, and find permanent homes for children who cannot be reunified.

Status update

In February 2018, the U.S. District Court for the District of Minnesota granted the Defendants' motion to dismiss in part and denied it in part, dismissing three of the four claims raised by the Plaintiffs. The [opinion](#) did not dismiss the Plaintiffs' Substantive Due Process claim; however, the court encouraged negotiations to settle the lawsuit. The final [settlement agreement](#) was [approved](#) by the court in December 2019 and provided for four years of oversight, assessment, periodic reporting, and public disclosure of actions. Additionally, it called for four years of systemic reforms overseen by a settlement subcommittee, which will monitor the county's progress in meeting its requirements and issue biannual monitoring reports.

Related Links

[A Better Childhood](#)

Mississippi

Olivia Y. v. Barbour (Also known as Olivia Y. v. Reeves)

Filed: March 2004

About the Case

Children's Rights filed a federal lawsuit on behalf of children in foster care, claiming that the Mississippi Department of Human Services and Division of Family and Children's Services were failing their obligations to protect abused and neglected children in the state. The [complaint](#) alleged violations of federal constitutional and statutory laws by excessive caseloads, inadequate staffing, insufficient services, and a lack of foster and adoptive homes. The complaint specifically stated that Defendants placed thousands of children in abusive and neglectful foster homes – putting them at significant risk of harm. Since 2014 the Plaintiff class has been represented by A Better Childhood.

Status update

In December 2016, a modified settlement agreement was approved by the court, requiring biannual reports from the monitor to assess state compliance. In 2021, after a new commissioner was appointed to head the agency and a new federal judge was appointed to handle the case, the parties agreed to a two-year rebuilding period, which placed the 2016 agreement on hold. The initial rebuilding period ended in June 2023 but has been extended multiple times. The negotiated end of the rebuilding period is now September 2024.

Related Links

[Civil Rights Litigation Clearinghouse](#)

[A Better Childhood](#)

Missouri

M.B. v. Tidball

Filed: June 2017

About the Case

Children's Rights and the St. Louis University Legal Clinic filed a federal lawsuit on behalf of children who are or will be in foster care in Missouri. The [complaint](#) alleged that the state failed to maintain a system of effective oversight and monitoring of psychotropic medications to children in state custody, violating the children's federal constitutional and statutory rights.

Status Update

Responding to Defendants' motion to dismiss, the district court dismissed Plaintiffs' claim pertaining to federal statutory violations. The court [held](#) that there was no private right of action to sue; however, it allowed a class action lawsuit to proceed.

In November 2019, the parties filed a [joint settlement agreement](#) with the court, and in December 2019, the court [approved](#) the agreement. The state is able to exit the agreement once the specified benchmarks have been met for three consecutive six-month reporting periods. A data validator is required to verify and report on a semi-annual basis to ensure Defendants' compliance with the exit criteria outlined in the agreement.

Related Links

[Children's Rights](#)

[Civil Rights Litigation Clearinghouse](#)

New Mexico

Kevin S. v. Jacobson

Filed: September 2018

About the Case

Disability Rights New Mexico and Native American Disability Law Center filed this lawsuit on behalf of children in the custody of New Mexico's child welfare system against New Mexico's Children, Youth, and Families Department and Human Services Department. The [complaint](#) alleged constitutional and statutory violations arising from the state's failure to ensure safe, stable, and appropriate placements; maintain adequate staffing; meet the medical, mental health and behavioral needs of children in state custody; and implement trauma-informed practices.

Status Update

In March 2020, the parties reached a [settlement agreement](#) which was approved by the court. Expiration of the agreement is conditioned on the state achieving compliance with all implementation targets and outcomes as certified by the three Co-Neutrals appointed to validate data related to the state's performance.

Related Links

[Civil Rights Litigation Clearinghouse](#)

Oklahoma

D.G. v. Yarbrough (Also known as D.G. v. Henry)

Filed: February 2008

About the Case

Children's Rights filed this lawsuit on behalf of children in Oklahoma's foster care system. The [complaint](#) alleged violations of the constitutional rights of the children in the state's care due to their routine placement in unsafe, unsupervised, and unstable living situations, where they were frequently subjected to further maltreatment. The Plaintiff class is now represented by A Better Childhood.

Status Update

The parties reached a [settlement agreement](#) in January 2012. Six months later, the Oklahoma Department of Human Services (DHS) began implementing the [Pinnacle Plan](#), which was a five-year strategy to cut down on placements, recruit more foster families, lower caseloads, eliminate shelter use, and raise worker salaries and foster family payments. A three-member monitoring panel (known as Co-Neutrals) oversees the implementation of the agreement.

Due to the COVID-19 pandemic, the parties agreed in December 2021 to enter into an abeyance agreement, which postponed "good faith" assessments by the Co-Neutrals for seven of the 30 remaining metric standards in the Pinnacle Plan.

The 23 metrics not impacted by the abeyance continued to be judged under the "good faith" standard as before. DHS achieved "good faith" findings for all 23 in a [January 2022 assessment](#) and continued to achieve such findings in the [June 2022](#) and [March 2023](#) assessments. On April 24, 2023, the court concluded that DHS had met its obligations under the Compromise and Settlement Agreement for the 23 unaffected metrics and ordered their obligations for such metrics to be terminated. The Co-Neutrals released their final report for the 23 unaffected metrics in [September 2023](#). DHS remains responsible for the seven impacted metrics for which "good faith" assessments were postponed. The "good faith" assessments have now resumed for these metrics and the Co-Neutrals will continue their assessments until all seven of the impacted metrics have achieved two successive years of "good faith" findings, inclusive of those "good faith" findings made prior to the abeyance agreement.

Related Links

[A Better Childhood](#)

Oregon

A.R. and B.C v. State of Oregon

Filed: September 2016

About the Case

The Oregon Law Center and Youth, Rights & Justice filed this class action suit, alleging that the Oregon Department of Human Services (DHS) practice of housing children in hotels and offices violated federal and state laws. A disproportionate share of the children in foster care placed in temporary quarters had mental disabilities, including behavioral and psychiatric impairments. By housing these children in hotels, offices, and even a juvenile detention facility, the lawsuit alleged that the state denied them access to the family-like environment and stability that the state should provide for all children in its care.

Status Update

On November 17, 2016, an interim settlement was reached between the parties. A joint statement from DHS and Youth, Rights & Justice said the settlement stipulated that DHS would not place children in jails without charges or hospitals without a medical reason, and DHS agreed not to house children in its offices unless there are no safe hotels nearby. Agency staff also were to transport children in state custody staying at hotels or its offices to school or daycare. In May 2017, the Plaintiffs broke off negotiations, citing data on the number of children still sleeping in hotels or offices.

In [February 2018](#), the parties agreed to settle the lawsuit. The parties returned to court in 2019 due to noncompliance with the settlement and DHS was ordered to comply with new standards for reducing the practice of lodging children brought into state protective care in hotel and motel rooms or child welfare offices. In 2021, the agency announced that it had decreased the use of temporary lodging by 66% in the past 12 months. However, DHS again was found to be in “substantial noncompliance” with the 2018 settlement agreement in July 2023, according to a [Youth, Rights & Justice news release](#). Although DHS agreed in the settlement to lodge no more than 12 children in hotels per year after June 2020, DHS placed 67 children in hotels during the last six months of 2022. The court appointed a special master to determine the next steps for DHS to return to compliance.

Rhode Island

Cassie M. v. Raimondo (Also known as Andrew C. v. Raimondo)

Filed: September 2007

About the Case

Children’s Rights filed this lawsuit charging Rhode Island’s Department of Children, Youth and Families (DCYF) with failing to ensure the safety and well-being of children in state custody. Plaintiffs’ [alleged](#) widespread failures in DCYF’s foster care system, citing frequent abuse and neglect of children in foster care, placement of children in large orphanage-like institutions, and a lack of essential medical, dental, and mental health services.

Status Update

In January 2018, the parties reached a comprehensive [settlement agreement](#) to resolve the lawsuit, and on May 9, 2018, a federal court approved the settlement agreement. DCYF has been working with Plaintiffs’ counsel and a monitoring team on the implementation of the terms of the settlement agreement. Through the first four reporting periods, DCYF successfully achieved three of the 12 strategic measures identified in the settlement agreement. In accordance with the terms of the settlement agreement, DCYF established a corrective action plan to address the areas of non-compliance and has expressed its commitment to satisfy the terms of the settlement agreement. DCYF has made substantial progress during the fifth and sixth reporting periods, meeting the threshold requirements for eight out of the 12 progress measures by the sixth report.

Related Links

[Children’s Rights](#)

South Carolina

Michelle H. v. McMaster (Also known as Michelle H. v. Haley)

Filed: January 2015

About the Case

This federal class action suit was brought by Children’s Rights against the South Carolina Department of Social Services (DSS) and state officials on behalf of 11 named Plaintiffs. The [complaint](#) alleged widespread failures of the state’s foster care system, including dangerous placement practices, excessive caseloads, and inadequate medical and mental health services. Despite publicly acknowledging these deficiencies, the state failed to remedy the violations.

Status Update

In June 2016, DSS signed a [settlement agreement](#) to resolve the lawsuit, and on October 4, 2016, a federal judge approved the agreement. The settlement requires the state to satisfy dozens of provisions relating to caseloads, investigations, placements, visitation, and health care.

Defendants presented improvement plans addressing all areas of the settlement agreement, which were adopted and approved by the court. The improvement plans designated July 1, 2020, as the date for implementation. Acknowledging the impact of the pandemic on the state's performance, the court entered an order in June 2020 directing implementation of specific actions by that date, including an increase in the foster care per diem rate, an increase in capacity for licensure of relative and nonrelative foster parents, and a case-by-case review of all children in congregate care. The implementation dates for other aspects of the settlement agreement were to be determined through mediation by the parties. In 2021, the monitoring team expressed concern about the number of children staying overnight at DSS offices and hotels. In March 2022, the parties agreed to a [short-term plan](#) to update the previous implementation plan's policies. The monitoring team published a [supplemental report](#) on the state's placement crisis in July 2023. The report noted that the placement crisis has reached "new extremes" and that DSS requires more resources to make substantial improvements in its placements.

Related Links

[Civil Rights Litigation Clearinghouse](#)

Texas

M.D. v. Abbott (also known as M.D. v. Perry)

Filed: March 2011

About the Case

Children's Rights filed a federal lawsuit against Texas officials alleging constitutional violations against children in long-term foster care, known in the state as Permanent Managing Conservatorship (PMC). The [complaint](#) asserted that the Department of Family and Protective Services failed to find permanent homes for children in state custody and subjected children in PMC custody to numerous harms including over-medication, repeated placements, abuse, neglect, and deprivation of familial relationships with siblings. The Plaintiff class is now represented by A Better Childhood. In 2015, The court [found Texas liable](#) for structural deficiencies in PMC and appointed Special Masters who recommended measures that would reduce caseloads, stop the use of group homes, increase available foster homes, and otherwise improve the children's living conditions.

Status Update

On January 19, 2018, The U.S. District Court entered a [final order](#) in the case which included an injunction against Texas. Following an appeal by the state, The U.S. Court of Appeals for the Fifth Circuit issued [an opinion](#) on October 18, 2018, upholding some provisions of the order and modifying others. The District Court thereafter [modified its final injunction](#) on November 20, 2018, which the state also appealed. The Fifth Circuit issued [an opinion](#) on July 8, 2019, that upheld and overturned parts of the lower court's final injunction.

Since the final injunction went into effect, a court-appointed monitoring team has been assessing compliance with the provisions of the final injunction. The monitoring team has issued six compliance reports and several issue-specific reports since the final injunction went into effect. The state has continued to struggle with its compliance, creating large concerns for both the monitoring team and the court. As a result, the District Court held the state in contempt in both [2019](#) and [2020](#) for violating its remedial orders. In the monitoring team's report filed on [June 25, 2023](#), the team cited "substantial gaps" in the state's compliance. [On June 27, 2023](#), the District Court held a hearing conference and echoed the monitors' concerns about the quality of the state's investigations into facilities with patterns of noncompliance.

Related Links

[Children's Rights](#)

[A Better Childhood](#)
[Civil Rights Litigation Clearinghouse](#)

Washington

D.S. v. Washington State Department of Children, Youth, and Families

Filed: January 2021

About the Case

Disability Rights Washington filed this [lawsuit](#) alleging that the Washington State Department of Children, Youth, and Families (DCYF) violated the rights of children in foster care with behavioral health and developmental disabilities. The suit called on DCYF to establish system-wide changes to correct various issues, including: the lack of family reunification services and supports; placement in hotels and state offices or other temporary stays; and the overall limited placement options for children with disabilities who are in foster care.

Status Update

On September 1, 2021, DCYF issued its initial [Exceptional Placement Plan](#) to address the number of foster youth experiencing unstable placements that result in hotel and office stays. On June 6, 2022, the parties entered into a [settlement agreement](#). The agreement laid out several widespread system improvements for DCYF to better provide for dependent children with behavioral health and developmental disabilities. The state's progress is reviewed and reported on by an independent monitor who must provide an initial report to the parties by February 18, 2025 on the state's progress in 2023 and 2024 toward achieving substantial compliance with the terms of the settlement and exit criteria. DCYF published its [final implementation plan](#) on May 31, 2023 and has indicated that it will provide a settlement agreement addendum by February 2024 to further develop the methodology and benchmarks used to ascertain the state's progress.

Related Links

[National Center for Youth Law](#)
[Washington State Department of Children, Youth, and Families](#)

Exited court oversight

Description: *Cases in this section closed or ended within the past 10 years due to a jurisdiction being released from court oversight of a consent decree, settlement agreement, or other order.*

Connecticut

Juan F. v. Lamont (Also known as Juan F. v. Rell and Juan F. v. Malloy)

Filed: December 1989

Case Closed: March 2022

About the Case

This lawsuit was brought by the Connecticut Civil Liberties Union Foundation, Children's Rights Project of the American Civil Liberties Union, and Children's Rights on behalf of children in Connecticut who were, or were at risk, of being in the custody of the Connecticut Department of Children and Families (DCF). [The complaint](#) alleged that DCF was underfunded and understaffed, child abuse complaints were not investigated, high caseloads overwhelmed social workers, and the agency failed to make reasonable efforts to keep families together. Plaintiffs asserted various constitutional violations as a result of agency failures.

On January 7, 1991, the parties reached a settlement agreement and entered a [consent decree](#) reflecting the agreement. The consent decree required Defendants to establish a training academy, a statewide computerized data system, and a health management system for children in custody of the department.

Status Update

The [exit plan](#), which was approved in July 2006, contained 22 outcome measures to be met and sustained for six months before exit. In March 2022, the parties to the class action filed [a motion to exit](#) the federal court oversight. Days later, the chief judge ruled that the Defendants had met all the requirements and issued an order closing the case.

Related Links

[Children's Rights](#)

[Civil Rights Litigation Clearinghouse](#)

District of Columbia

LaShawn A. v. Fenty (Also known as LaShawn A. v. Williams, LaShawn A. v. Barry, LaShawn A. v. Dixon, LaShawn A. v. Kelly)

Filed: June 1989

Case Closed: June 2021

About the Case

Children's Rights and the ACLU filed this suit against the District of Columbia Department of Human Services (DHS) on behalf of children in foster care or known to DHS due to reported abuse or neglect. The [complaint](#) alleged that DHS's failure to timely investigate reports of neglect or abuse and provide for the needs of children in foster care violated the Plaintiffs' statutory and constitutional rights. In [April 1991](#), the district court found in favor of the Plaintiffs and the U.S. Court of Appeals for the District of Columbia Circuit upheld the decision in [April 1993](#). Following the district court's decision, DHS entered into a consent decree to develop new procedures for investigating reported abuse or neglect and providing for the welfare of children in foster care. A Better Childhood later assumed representation for the Plaintiff class.

Status Update

After several years of monitoring and revised implementation plans, the parties submitted a joint motion for an [exit and sustainability plan](#) in August 2019. The court approved the plan in October 2019. The plan included 19 outcomes to be achieved and continued monthly review by the court monitor. The plan detailed that the Defendants may independently seek to exit court supervision, after they had maintained all outcomes to be achieved for two consecutive six-month reporting periods, by petitioning the court or by other court order.

The district court, court monitor, and the Plaintiffs' counsel came together in Summer 2020 to reach a mutual agreement on exit commitments and timelines. In August 2020, the judge signed a [preliminary settlement agreement](#) to allow the D.C. Child and Family Services Agency (CFSA) to exit court oversight on or before June 1, 2021. This agreement provided additional goals for CFSA to achieve prior to exit. A settlement agreement was reached, and a status hearing was scheduled for September 2022.

Related Links

[A Better Childhood](#)

[Civil Rights Litigation Clearinghouse](#)

Nevada

Henry A. v. Willden

Filed: April 2010

Case Closed: November 2015

About the Case

The National Center for Youth Law filed a lawsuit against various Nevada child welfare workers, claiming statutory and constitutional violations. The [complaint](#) sought monetary damages and systemic improvements on behalf of three classes: (1) children who have not been appointed a guardian ad litem to represent them in their court proceedings, (2) children who have not been referred to Early Intervention Services, and (3) children who have not had a case plan developed containing the relevant information for foster parents.

Status Update

In October 2010, The U.S. District Court for the District of Nevada [dismissed](#) the case. The Plaintiffs appealed, and in 2012, The U.S. Court of Appeals for the Ninth Circuit [overturned](#) the District Court's ruling, allowing litigation to move forward in the District Court. In 2014, the parties entered into settlement discussions. The negotiations resulted in a [settlement agreement](#), inclusive of damages, and it was approved by the court. In November 2015, the Plaintiffs filed a [stipulation](#) to close the case, which the court granted.

Related Links:

[National Center for Youth Law](#)

[Civil Rights Litigation Clearinghouse](#)

New Jersey

Charlie and Nadine H. v. Murphy (Also known as Charlie and Nadine H. v. Corzine)

Filed: August 1999

Case Closed: April 2023

About the Case

Children's Rights filed a class action lawsuit on behalf of children in the custody of the New Jersey Division of Youth and Family Services. The [complaint](#) alleged violations of the children's constitutional rights, Title IV-E, the Child Abuse Prevention and Treatment Act, Early Periodic Screening Diagnosis and Treatment, § 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Multiethnic Placement Act.

Status Update

In July 2006, a [modified settlement agreement](#) was finalized. In November 2015, after years of continued progress, a [sustainability and exit plan](#) was entered, which required the New Jersey Department of Children and Families (DCF) to achieve and maintain various performance measures. In March 2023, the U.S. District Court for the District of New Jersey dismissed the case, stating that dismissal was appropriate in light of the progress DCF made in meeting many of the standards established through the litigation, the substantial commitments DCF made to build on those efforts, and the risks inherent in continued litigation. The dismissal ceased monitoring under the consent decree and concluded 24 years of litigation.

Related Links

[Civil Rights Litigation Clearinghouse](#)

New York

A.M. v. Mattingly

Filed: May 2010

Case Closed: June 2016

About the Case

The Legal Aid Society's Juvenile Rights Practice filed this class action suit against the New York Administration for Children's Services (ACS) on behalf of children in New York's foster care system who have been confined in psychiatric hospitals for prolonged periods of time. The [complaint](#) asserted that ACS placed children in acute care psychiatric hospitals under highly-restrictive conditions for unnecessarily long periods of time. The wrongful, extended confinement was alleged to violate the Plaintiffs' statutory and constitutional rights.

Status Update

In November 2010, the parties submitted a settlement agreement to the court and the court gave final approval to the settlement in [February 2011](#). The agreed upon consent decree implemented new training programs for ACS staff, improved placement policies, and monitoring requirements. In [June 2011](#), the court entered a settlement order, in which the case was dismissed with prejudice and the Defendants were released from liability in exchange for payment. After a few years of monitoring, the court approved a joint motion to alter the settlement in [January 2016](#). The amended agreement extended the court's jurisdiction for an additional four months with the option of extension for another six months after June 30, 2016. The parties chose not to extend jurisdiction after June 30, 2016, and the court's jurisdiction has thus expired.

Related Links

[Civil Rights Litigation Clearinghouse](#)

New York

Marisol A. v. Giuliani

Filed: December 1995

Case Closed: August 2018

About the Case

Children's Rights filed a class action lawsuit representing children in the custody of the New York City Child Welfare Administration and at-risk children who are known, or should have been known, to the agency. The lawsuit was filed against New York City and the state of New York. The [complaint](#) alleged violations of the First, Eighth, and 14th Amendments; the Adoption Assistance and Child Welfare Act; the Child Abuse Prevention and Treatment Act; the Medicaid Act; the Multiethnic Placement Act; the Americans with Disabilities Act; the Rehabilitation Act; and state law. The allegations included Defendants' failure to protect the Plaintiffs from abuse and neglect, appropriately accept and investigate reports of child maltreatment, provide preventative services, place children in appropriate placements, provide appropriate case management services, and maintain an adequate information system to manage the child welfare system effectively.

Status Update

The parties agreed to separate settlement agreements with the city and state Defendants, and both agreements were [approved](#) by the U.S. District Court for the Southern District of New York in March 1999. The city settlement required the creation of an independent advisory panel with complete access to the agency, which would provide recommendations, issue progress reports on reform, and determine whether the city was acting in good faith in pursuing systematic reform. The city settlement was successfully reached in March 1999.

In January 2001, Plaintiffs returned to court alleging the state's noncompliance with specific terms of the state settlement agreement. In August 2001, the court agreed and extended the term of those settlement provisions until the court was able to determine the state's full compliance. Some 17 years later, a status conference was held, which resulted in a [report](#) outlining the state's significant progress in complying with the state settlement agreement. In August 2018, the court relinquished its jurisdiction over that state settlement agreement, and the case was fully closed.

Related Links

[Civil Rights Litigation Clearinghouse](#)

Ohio

Roe v. Staples

Filed: October 1983

Case Closed: June 2016

About the Case

This case was filed against the Hamilton County Department of Human Services (HCDHS) and the Ohio Department of Human Services (ODHS) on behalf of children in Ohio's foster care system. The complaint alleged that HCDHS had failed to provide children in foster care and their parents with pre-removal and reunification services consistent with their rights pursuant to federal child welfare statutes and the 14th Amendment of the U.S. Constitution.

Status Update

The parties entered into a consent decree that required the state to monitor county performance to ensure compliance with federal law and complete an assessment to quantify the number and types of services needed by families and children. Ohio resolved the monitoring component of the decree in 2015, more than 30 years after execution of the initial decree. On June 27, 2016, the U.S. District Court announced that the state completed all requirements and that Ohio had successfully exited from the consent decree.

Related Links

[Civil Rights Litigation Clearinghouse](#)

Tennessee

Brian A. v. Haslam (Also known as Brian A. v. Sundquist, Brian A. v. Bredesen, and Brian A. v. Hattaway)

Filed: May 2000

Case Closed: February 2019

About the Case

Children's Rights filed this lawsuit against Tennessee's Department of Children's Services (DCS) on behalf of children in Tennessee's foster care system, including a subclass of Black children in foster care. The [complaint](#) alleged that DCS has endangered the Plaintiffs' health and wellbeing by the widespread deficiencies in DCS's placement practices, case manager support, and developmental and family support services. The complaint further claimed that DCS's administration of child welfare services has a disproportionately negative impact on Black children in the foster care system.

Status Update

In July 2017, the district court [approved](#) a modified settlement agreement and exit plan. The agreement created an independent commission to conduct oversight of DCS. The External Accountability Center

subsequently published [five public reports](#) in six-month intervals from January 2017 to May 2020. In 2019, the state was [granted exit](#) from the court-ordered improvements and the oversight ended in February 2019.

Related Links

[Children's Rights](#)

[Civil Rights Litigation Clearinghouse](#)

Washington

Braam v. State of Washington

Filed: November 1998

Case Closed: October 2022

About the Case

This class action was originally filed by Columbia Legal Services and the National Center for Youth Law against the Washington State Department of Social and Health Services (DSHS) on behalf of children in Washington's foster care system. An [amended complaint](#) alleged violations of the children's substantive due process rights as a result of the state's failure to provide adequate mental health assessments and treatments; train, support, and oversee foster parents; provide a sufficient number of safe and adequate foster care placements; maintain adequate staffing; avoid unnecessary placement changes; maintain sibling groups together; and search for children who have run away from foster care.

Status Update

The parties entered into a [settlement agreement](#) in July 2004, the terms of which were to remain in force until July 31, 2011. An independent oversight panel was created to oversee the enforcement of the settlement. The settlement was extended past October 31, 2011 and a [revised settlement and exit agreement](#) went into effect on November 1, 2011. The revised settlement expired on December 31, 2013, but DSHS continued to be monitored over the next several years until it could reach full compliance. On October 31, 2022, the court granted the parties' joint motion agreeing that the department was in compliance with all remaining enforceable outcomes and to dismiss the case.

Related Links

[National Center for Youth Law](#)

[Civil Rights Litigation Clearinghouse](#)

[Washington State Department of Children, Youth & Families](#)

Wisconsin

Jeanine B. v. Doyle (Also known as Jeanine B. v. Walker)

Filed: June 1993

Case Closed: September 2021

About the Case

The American Civil Liberties Union Children's Rights Project brought this suit against Wisconsin state officials on behalf of children in Milwaukee's foster care system and other victims of child abuse and neglect in Milwaukee County. The [complaint](#) alleged that Plaintiffs did not receive timely and appropriate investigations of maltreatment, services to prevent entry into foster care, or appropriate case planning and services once they entered foster care. The suit also alleged that children were placed in inadequate and unmonitored foster homes, their cases lacked permanency planning, and that children with disabilities in the foster care system were discriminated against in case planning and services.

Status Update

In 2002, the parties entered into a [settlement agreement](#). By December 2017, significant reform had been made in Milwaukee County, including a lower rate of abuse, higher percentage of adoptions within 24 months of entering care, and more manageable caseloads. As a result, the county had been released from 17 of the 18 enforceable agreement provisions. In 2021, a request was sent to the court for the case to be dismissed, and [in September](#) of that year, a judge [terminated the consent decree](#).

Related Links

[Civil Rights Litigation Clearinghouse](#)

[Children's Rights](#)

[Wisconsin Department of Children and Families](#)

Litigation pending

Description: *Cases in this section are those in which litigation is ongoing and the matter has not yet settled.*

Alabama

A.A., B.B., C.C., and D.D. v. Buckner

Filed: May 2021

About the Case

This class action lawsuit was brought against the Alabama Department of Human Resources (DHR) by Alabama Disabilities Advocacy Program, Southern Poverty Law Center, and Children's Rights on behalf of children in foster care. The [complaint](#) alleged that DHR was in violation of Title II of the Americans with Disabilities Act by discriminating against children in foster care who have mental impairments, pointing to their segregation in restrictive institutional placements. The complaint specifically stated that children were placed in these facilities unnecessarily and remained in the facilities longer than necessary rather than being moved to less-restrictive, family settings.

In July 2021, DHR filed a motion to dismiss that was granted in part in October 2021. The Plaintiffs then filed an [amended complaint](#) in November 2021. Litigation is still pending, and an extension of the deadline for class certification was issued in July 2023.

Related Links

[Children's Rights](#)

[Southern Poverty Law Center](#)

[Civil Rights Litigation Clearinghouse](#)

Alaska

Jeremiah M., Hannah M. and Hunter M. v. Crum

Filed: May 2022

About the Case

A Better Childhood, Disability Law Center of Alaska, and Northern Justice Project brought this federal class action lawsuit on behalf of children in the state's foster care system. Defendants include Alaska Department of Health and Social Services and the Office of Children's Services. [The complaint](#) alleged violations of federal constitutional and statutory law, including the Indian Child Welfare Act, the Adoption Assistance and Child Welfare Act, the Americans with Disabilities Act, and the Rehabilitation Act. Specific claims included: the state's failure to ensure manageable caseloads, adequate staffing, placement

stability, and adequate family foster home capacity; failure to provide timely case plans, adequate permanency planning, and proper services; and failure to support children, parents, and foster parents.

In September 2023, the court issued an [order](#) granting in part and denying in part the Defendant's motion to dismiss.

Related Links

[A Better Childhood](#)

[Civil Rights Litigation Clearinghouse](#)

California (Los Angeles County)

Ocean S. v. LA County

Filed: August 2023

About the Case

This case was brought by Children's Rights and Alliance for Children's Rights on behalf of transition-age youth in foster care in Los Angeles. The [complaint](#) was filed against both the state of California and Los Angeles County human services agencies, and alleges failures by the agencies to fulfill their obligation under federal and state law to provide the youth with access to housing and support services. The complaint attributes a "foster care to homelessness pipeline" to the alleged failures.

Related Links

[Children's Rights](#)

California (San Bernardino County)

Gary G. v. Newsom

Filed: May 2023

About the Case

This case was filed against the California Department of Social Services, San Bernardino County Child and Family Services, and state and county officials and agencies on behalf of children in foster care. The [complaint](#) is focused primarily on alleged failures of San Bernardino County's child welfare system. Specific allegations include inadequate case planning, failure to vet and monitor foster homes resulting in harm to children, failure to provide health services to children, failure to achieve timely permanency, and dangerously high caseloads. The case also included a subclass of children with disabilities, who the county allegedly has failed to support.

Related Links

[Children's Rights](#)

Indiana

Annabel B. v. Governor Holcomb

Filed: August 2023

About the Case

This case was brought by A Better Childhood on behalf of children in foster care in Indiana. The [complaint](#) alleges that the Indiana Department of Child Services and the state has failed to maintain the basic care and safety of foster children. The allegations include failure to recruit and retain caseworkers, failure to provide timely and appropriate medical treatment, failure to maintain an adequate number of foster homes, as well as specific failures pertaining to a subclass of children with disabilities who are protected under the Americans with Disabilities Act.

Related Links

[A Better Childhood](#)

Maine

Bryan C. v. Lambrew

Filed: January 2021

About the Case

Children's Rights and Maine Equal Justice filed a class action lawsuit against the Maine Department of Health and Human Services and the Office of Child and Family Services on behalf of children who are or will be in foster care, and who are or will be prescribed or administered psychotropic medication. The [complaint](#) alleges violations of federal constitutional and statutory law arising from insufficient medical and mental health records for children in foster care, lack of adherence to an informed consent policy, and inadequate secondary review of psychotropic medication.

The Defendants filed a [motion to dismiss](#) in the U.S. District Court for the District of Maine in October 2021. The court's [opinion](#) granted the motion in part and denied it in part, dismissing the Plaintiffs' claim under the Adoption Assistance and Child Welfare Act, finding that the provision did not support a private cause of action. No other grounds that the Plaintiffs raised were dismissed. The case now has proceeded to discovery, during which time the parties will gather information to prepare for trial.

Related Links

[Children's Rights](#)

New Hampshire

G.K. v. Sununu

Filed: January 2021

About the Case

The ACLU of New Hampshire, Disability Rights Center of New Hampshire, New Hampshire Legal Assistance, and Children's Rights filed a lawsuit on behalf of children with mental disabilities who had been placed in foster care due to parental abuse or neglect. The [complaint](#) alleged violations of federal constitutional and statutory rights caused by unnecessary placement in group and residential placements without the benefit of an attorney or adequate case planning.

In September 2021, Defendants filed a motion to dismiss for failure to state a claim on which relief may be granted. The federal court [granted](#) the motion with respect to Plaintiffs' right to counsel claim and denied the motion with respect to all remaining counts. In October 2021, the Governor of New Hampshire issued an [executive order](#) establishing the formation of the Juvenile Justice Reform Commission. The advisory group was instituted to redesign the state's juvenile justice system in a way that provides accountability without criminalization, offers alternatives to justice system involvement, provides an individualized approach based on the juveniles risks and needs, and ensures the safety of the community. However, litigation is still pending.

Related Links

[Children's Rights](#)

New York

C.K. v. Bassett

Filed: March 2022

About the Case

Children's Rights, Disability Rights New York, and the National Health Law Program filed a lawsuit on behalf of a putative class of Medicaid eligible children and children at risk of enrollment in segregated institutional facilities. The [complaint](#) was filed against the New York State Department of Health Commissioner and the New York State Office of Mental Health Commissioner and described New York's systematic failure to provide the children with legally required mental health care services. The allegations include a total failure to provide intensive home and community-based mental health services, a failure to provide federally funded services specifically designed to prevent unnecessary institutionalization, and the failure to provide these services in a timely or sufficient manner.

The case has now proceeded to discovery, during which time the parties will gather information to prepare for trial. In June 2023, The U.S. District Court for the Eastern District of New York amended the discovery schedule and recommended that discovery be concluded by March 2024.

Related Link

[Children's Rights](#)

New York (New York City)

Elisa W. v. The City of New York

Filed: July 2015

About the Case

The Public Advocate for the City of New York and A Better Childhood filed a class action lawsuit on behalf of children in foster care. The [complaint](#) alleges that the New York City Administration for Children's Services and the New York State Office of Children and Family Services caused irreparable harm to children in their custody by failing to protect them from maltreatment, ensure services provided are effective and of acceptable quality, ensure appropriate placements, provide children with permanent homes and families and reunification within a reasonable time, and properly address structural deficiencies in the New York City child welfare system.

Status Update

In September 2021, the U.S. District Court for the Southern District of New York [denied](#) the renewed class certification. Plaintiffs filed an appeal with the U.S. Court of Appeals for the Second Circuit, which ordered a stay on the underlying case while the appeal was pending. In September 2023, the Second Circuit [reversed and remanded](#) the District Court decision denying class action status. The lawsuit now can move forward as a class action challenge to a range of practices by the New York City foster care system.

Related Links

[Civil Rights Litigation Clearinghouse](#)

[A Better Childhood](#)

North Carolina

Timothy B. v. Kinsley

Filed: December 2022

About the Case

On December 6, 2022, Children's Rights filed a [federal lawsuit](#) on behalf of children with disabilities in North Carolina's foster care system. The lawsuit alleges federal statutory violations arising from the state's discriminatory placement of children with disabilities in psychiatric residential treatment facilities (PRTFs) despite being eligible for integrated community-based housing and services. The complaint describes PRTFs as "prison-like" institutions with traumatizing conditions, especially for children with disabilities who are particularly vulnerable to the overmedication, injuries, and abuse that often occur in

those facilities. On March 6, 2023, Children's Rights filed an [amended complaint](#) removing one of the named Plaintiffs from the suit.

Related Links

[Civil Rights Litigation Clearinghouse](#)
[Children's Rights](#)

Oregon

Wyatt B. v. Governor Brown

Filed: April 2019

About the Case

On April 16, 2019, A Better Childhood and Disability Rights Oregon filed a lawsuit against the Governor of Oregon on behalf of children in the state's foster care system. The [complaint](#) alleges that the state has failed to protect children, ensure their constitutional rights, provide necessary services, and place them in safe and appropriate homes.

Status Update

In June 2019, the parties convened settlement negotiations but were not able to reach an agreement. In July 2019, the Defendants filed a [motion to dismiss](#) and the Plaintiffs filed [their response](#) in August 2019. The court sided with the Plaintiffs and filed an [opinion and order](#) rejecting the motion to dismiss in September 2021. The state moved to appeal and in November 2021, the Plaintiffs filed a [response](#) to that motion. The court granted class certification in August 2022 and [denied the state's motion](#) to certify an order for interlocutory appeal in September 2022.

Related Links

[Civil Rights Litigation Clearinghouse](#)
[Disability Rights Oregon](#)

Tennessee

B.R. v. Quin

Filed: July 2023

About the Case

On July 24, 2023, Children's Rights filed a federal lawsuit on behalf of immigrant children in Tennessee's foster care system who do not have legal status. The [complaint](#) alleges that the Tennessee Department of Children Services systematically has failed to provide immigration-related services to eligible children in foster care. Its failure to do so prevents these children from applying for the federally funded immigrant relief program known as "Special Immigrant Juvenile Status," which provides access to federal funds, protection from removal, and a path to citizenship.

Related Links

[Children's Rights](#)

West Virginia

Jonathan R. v. Governor Justice

Filed: September 2019

About the Case

On September 30, 2019, A Better Childhood filed a lawsuit against the West Virginia Department of Health and Human Resources (DHHR), among others, on behalf of children in West Virginia's foster care system. The [complaint](#) alleges constitutional violations arising from the state's failure to protect children from physical and emotional harm, discriminatory treatment of children with disabilities, and inappropriate home placements.

The Defendants filed several motions to dismiss in 2019 and 2020. In response to such motions, the court [dismissed](#) the lawsuit in July 2021 based on mootness and the abstention doctrine. The Fourth Circuit Court of Appeals [reversed](#) the district court's decision, however, rejecting the lower court's rulings on both mootness and abstention. The case was remanded to the district court to reconsider the Plaintiffs' claims. Subsequently, the district court granted the lawsuit [class action status](#) on August 17, 2023. On August 25, 2023, the district court denied DHHR's motion to disqualify the "next friends" representing the minors involved in the case as guardians *ad litem*. On September 1, 2023, the district court granted DHHR's motion to dismiss the claims of one Plaintiff for lack of standing.

Related Links

[A Better Childhood](#)

[Civil Rights Litigation Clearinghouse](#)

Litigation dismissed

Description: *Cases in this section were dismissed on clear procedural grounds within the past 10 years.*

Indiana

Ashley W. v. Holcomb

Filed: June 2019

Case Closed: May 2022

About the Case

A Better Childhood filed this class action on June 25, 2019, on behalf of children in foster care in Indiana. The [complaint](#) alleged that the Indiana Department of Child Services (DCS) violated federal constitutional rights and federal and state law by inadequately assessing and responding to reports of child abuse and neglect and failing to support an adequate placement array, which has led to an overreliance on institutional settings and emergency shelter care. The suit also claimed that the state had failed to adequately train, supervise, and retain caseworkers, and lacked a sufficient continuum of services necessary to meet the needs of children and families involved with the system.

Status Update

DCS filed motions to dismiss which the judge denied in part and granted in part. The court ruled that the abstention doctrine did not require the federal court to decline jurisdiction and that the children sufficiently stated a claim under the Americans with Disabilities Act, but that the Adoption and Child Welfare Act did not create a privately enforceable federal right. The state appealed, and the U.S. Court of Appeals for the Seventh Circuit [reversed](#), holding that because the disputed issues all may be resolved by judges presiding over individual abuse and neglect cases, the abstention doctrine requires the federal court to dismiss the suit on jurisdictional grounds.

Related Links

[Civil Rights Litigation Clearinghouse](#)

South Dakota

Oglala Sioux Tribe v. Luann Van Hunnik

Filed: 2013

Case Closed: January 2020

About the Case

Three American Indian parents, the Oglala Sioux Tribe, and the Rosebud Sioux Tribe filed a [class action lawsuit](#) to challenge the continued removal of American Indian children in Pennington County, S.D., from their homes based on insufficient evidence and without proper hearings, in violation of the Indian Child Welfare Act (ICWA) of 1978 and the constitutional right to due process.

Status Update

In March 2015, a court issued a [partial summary judgment](#) in favor of the Plaintiffs regarding emergency removal hearings, also known as “48-hour hearings,” in Pennington County. In August 2016, the court convened a compliance hearing, which revealed the scope of the Defendants’ inaction. In December 2016, the court [issued a finding](#) that the Defendants “continue to disregard his prior rulings” and ordered “an immediate halt” to further violations, accompanied by a [formal injunction](#), indicating that a failure to comply could result in a contempt of court citation.

In September 2018, a federal appeals court sided with state agencies in South Dakota in regard to the earlier district court ruling, and in a unanimous decision, the U.S. Court of Appeals for the Eighth Circuit set aside the ruling, saying the lower court order went too far by ordering the state improve compliance with ICWA. Following this decision, the defendants filed a motion to dismiss and on January 16, 2020, the court [granted](#) it. The case is now closed.

Related Links

[ACLU](#)

[Civil Rights Litigation Clearinghouse](#)

¹ Casey Family Programs analysis of financial cost data as reported by jurisdictional leads, April 2015.

Casey Family Programs is the nation's largest operating foundation focused on safely reducing the need for foster care and building Communities of Hope for children and families in the United States. By working together, we can create a nation where Communities of Hope provide the support and opportunities that children and families need to thrive. Founded in 1966, we work in all 50 states, Washington, D.C., Puerto Rico, the U.S. Virgin Islands and with tribal nations across North America to influence long-lasting improvements to the well-being of children, families and the communities where they live.

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