



INFORMATION PACKET

SAFE STRONG SUPPORTIVE

February 2025

Summary of child welfare class action litigation

This report was developed and updated in partnership with the [Barton Child Law and Policy Center](#) at Emory University.

Class action litigation has been an increasingly common means to advocate for the reform of what the public perceives as failing government institutions, such as education, law enforcement, and health care. Cases typically are built around an argument that one or more federal statutory or constitutional rights have been violated. In child welfare, class action lawsuits often are resolved through a settlement agreement between the parties, a consent decree, or other judicial order, rather than a judgment following a trial on the merits. These approaches provide ongoing authority to judges, independent monitors, and other oversight bodies to enforce negotiated outcomes and associated performance benchmarks. As reform plans are comprehensive, child welfare class action litigation is both lengthy (the lifespan of a case averages about 11 years) and expensive (including consulting and legal fees, hiring additional staff, and the costs to monitor the requirements of the settlement agreement).

The cases included in this information packet have been brought by or on behalf of children in foster care and seek comprehensive system reform by addressing alleged constitutional and statutory violations of substantive and procedural rights. Information presented 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 links to related resources. **This information packet is updated periodically and is current as of January 2025.**

The cases are divided into four sections based on the current status of the litigation:

[Jurisdictions operating under court oversight](#)

[Jurisdictions that have exited court oversight](#)

[Jurisdictions where litigation is pending](#)

[Jurisdictions where litigation has been dismissed](#)

Operating under court oversight

Description: *Most cases in this section resulted in a settlement agreement negotiated by the parties and approved by a court. The agreement allows for the dismissal of the case with the court retaining jurisdiction for enforcement if necessary. Other cases resulted in a court-ordered consent decree or in a final order after trial, which allows the case to remain open and the court to actively monitor it.*

Arizona

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

Filed: February 2015

About the Case

Children's Rights brought this lawsuit 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

The American Civil Liberties Union of Southern California and the Center for Law in the Public Interest filed this class action against the State of California and Los Angeles County. The suit challenged the state's longstanding practice of institutionalizing children who experienced abuse and neglect by placing them 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 parties received final approval from 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. An appointed Special Master and Advisory Panel filed regular reports.

Following a county motion to terminate jurisdiction, filed in August 2019, the parties began settlement negotiations. On October 8, 2020, the court entered an order approving the parties' preliminary agreement, which received approval on November 29, 2023, through a [final judgment](#) that terminated the court's jurisdiction 18 months following the entry of the order to enforce the defendant's routine and special reporting requirements.

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

Children's Rights filed this lawsuit against the State of Florida on behalf of children in foster care whose cases originate 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 agreement on 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 an auditor, accepted by all parties, monitor compliance.

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

Children's Rights brought this lawsuit against Georgia's Division of Children and Family Services on behalf of children in foster care in DeKalb and Fulton counties. 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](#) 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 court acknowledged the state's improvement and the system's increasing stability, approving 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 added to the exit plan in December 2017. Twice-annual [monitoring reports](#) continue to be filed.

In September 2024, the defendants filed a motion to terminate the consent decree, arguing that continued enforcement would be redundant, unnecessary, counterproductive, and inequitable considering the significant improvements already achieved. Plaintiffs filed their initial response in November 2024.

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 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. The lawsuit challenged the agency's 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 the defendants to submit a response to the motion has been extended. As of November 2024, however, the court 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

The American Civil Liberties Union brought this case on behalf of all children who were or would be in the custody of the Illinois Department of Children and Family Services. The [complaint](#) alleged the agency was failing to provide services to the children in its care in violation of rights guaranteed by the 14th Amendment of the U.S. Constitution and the federal Adoption Assistance and Child Welfare Act of 1980. In December 1991, a [consent decree](#) was entered that since has undergone multiple modifications by the court.

Status Update

In July 2015, a panel of court-appointed experts issued a report outlining findings and providing six recommendations for systemic changes. The court adopted the report, and the Department of Children and Family Services responded with an [implementation plan](#). On joint motion of the parties, the court approved the plan in October 2016. This plan represented a core component of the agency's overarching strategic plan, setting forth specific steps to address the individual needs of children in foster care who

have psychological, behavioral, or emotional challenges. In May 2019, the parties entered into a separate agreement concerning the placement of children in foster care.

In November 2019, the court entered a [stipulation](#) prohibiting the agency and its contractors from using handcuffs or shackling when transporting children. The agency was to develop and finalize a transportation protocol that allowed for use of soft restraints based on the individualized needs of the child or a court order and with the recommendation and approval of the agency's chief deputy director.

A [superseding implementation plan](#) was filed in May 2023 setting out the next phase in the department's effort to address the 2015 experts' report. This plan identified seven strategies designed to improve care for all class members, particularly those with psychological, behavioral, or emotional challenges. The department agreed that the plan cannot be terminated until the agency has met improvement goals in criteria specified in the plan. Additionally, in July 2024, in accordance with the superseding implementation plan, the parties agreed to an extended and revised investigator caseload implementation plan.

Related Links

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

Kansas

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

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 Medicaid Act.

Status Update

In July 2020, the parties reached a [settlement agreement](#), which included goals for improvements and required systemic changes. 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.

The Center for the Study of Social Policy issues [reports](#) assessing Kansas' progress toward achieving the goals under the agreement.

Related Links

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

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 April 2021. The court's subsequent [opinion](#) granted the defendant's 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.

On March 1, 2024, the parties filed a [motion](#) for preliminary approval of a [joint settlement agreement](#). On July 3, 2024, the court issued an [order](#) granting preliminary approval to the proposed settlement, provisional class certification, and plan to provide the required notice to the class. The parties then filed a joint motion on September 11, 2024, for final approval of the settlement agreement. A fairness hearing was held on November 4, 2024, and the court issued its [order granting final approval](#) to the settlement on November 27, 2024. Accordingly, the case is dismissed, with the court retaining continuing jurisdiction for purposes of enforcing and ensuring compliance for so long as the settlement agreement remains in effect, which is limited to five years from the start date of the implementation reviewer's contract.

Related Links

[Children's Rights](#)

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 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.

The court in October 2009 [approved](#) a second modified consent decree, which required 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 achieve.

Compliance [reports](#) are accessible through Maryland's Department of Human Services webpage.

Related Links

[Civil Rights Litigation Clearinghouse](#)

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 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 associated with each measure.

In June 2019, the court approved a [second modified implementation, sustainability, and exit plan](#) between the parties, reflecting a number of changes that the defendants sought, such as 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.

Monitoring [reports](#) are available through Michigan's Health & Human Services website.

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 class action 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 or 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 partially granted and partially denied the defendants' motion to dismiss, dismissing three of the four claims the plaintiffs raised. The [opinion](#) did not dismiss the plaintiffs' claim of substantive due process, and the court encouraged negotiations to settle the lawsuit. The final [settlement agreement](#) was [approved](#) by the court in a December 2019 order

dismissing the remaining claims and providing for four years of oversight, assessment, periodic reporting, and public disclosure. Additionally, the order 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.

Mississippi

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

Filed: March 2004

About the Case

Children's Rights filed a 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 the defendants placed thousands of children in abusive and neglectful foster homes, putting them at significant risk of harm. Since 2014, A Better Childhood has represented the plaintiff class .

Status update

In December 2016, the court approved a modified settlement agreement requiring biannual reports from a monitor to assess state compliance. In 2021, after a new commissioner was appointed to head the agency and a new 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. In October 2024, the court [ordered](#) the modified settlement agreement between the parties to continue under a suspension period lasting until April 2025. The defendants will continue producing data to the monitor during the suspension period under specified deadlines.

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 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 foster care, violating the children's federal constitutional and statutory rights.

Status Update

Ruling on the defendants' motion to dismiss, the court dismissed the plaintiffs' claim pertaining to federal statutory violations, [holding](#) 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 the defendants' compliance with the exit criteria outlined in the agreement.

Missouri's Psychotropic Medication Advisory Committee [reports](#) are available through the state's Department of Social Services. The most recent [report](#) covered January 2024 to June 2024.

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 against the state's Children, Youth, and Families Department and its Human Services Department on behalf of children in the custody of New Mexico's child welfare system. 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 the court approved. Termination 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.

In June 2023, the parties entered into a [corrective action plan](#) to bring the department into compliance with the agreement. The plan addressed several issues, including workforce caseload, family-based placements, and out-of-state placements.

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 frequently were subjected to further maltreatment. A Better Childhood now represents the plaintiff class.

Status Update

The parties reached a [settlement agreement](#) in January 2012. Six months later, the Oklahoma Department of Human Services began implementing the [Pinnacle Plan](#), 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.

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. The department 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 the department 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 a final report for the 23 unaffected metrics in [September 2023](#). The good-faith assessments have since resumed for the seven metrics and the co-neutrals will continue assessments until those impacted metrics have achieved two successive years of good-faith findings, inclusive of those good-faith findings made prior to the abeyance agreement.

The co-neutrals release [monthly and semi-annual reports](#) available on the Oklahoma Human Services website.

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 alleging that the Oregon Department of Human Services 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. According to a joint statement from the department and Youth, Rights & Justice, the settlement stipulated that the department would not place children in jails without charges or hospitals without a medical reason, and the agency agreed further not to house children in its offices unless there are no safe hotels nearby. The agency also agreed to transport any children staying at hotels or its offices to school or daycare.

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

Oregon

Wyatt B. v. Governor Brown

Filed: April 2019

About the Case

A Better Childhood and Disability Rights Oregon filed a lawsuit against the Governor of Oregon and the Oregon Department of Human Services on behalf of children in the state's foster care system. The [complaint](#) alleged that the state 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 unable to reach an agreement. In July 2019, the defendants filed a [motion to dismiss](#) and the plaintiffs filed [their response](#). In a September 2021 [opinion and order](#), the court denied the motion to dismiss. 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 in September 2022, the court [denied the state's motion](#) for interlocutory appeal of the class certification order.

In May 2024, the court entered an [order](#) approving a settlement agreement that will terminate when a neutral monitor determines the agency is in substantial compliance with outcomes specified in the agreement or within 10 years of its effective date, whichever is sooner, unless extended. The court retained jurisdiction only to enforce the agreement. On June 14, 2024, the court had [appointed](#) a neutral, and stated that in April 2025, the neutral would provide recommendations of exact steps the agency would need to take in order to meet the goals under the settlement agreement.

Related Links

[Civil Rights Litigation Clearinghouse](#)

[Disability Rights Oregon](#)

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 with failing to ensure the safety and well-being of children in state custody. Plaintiffs [alleged](#) widespread failures in the state'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 in May 2018, the court approved it. The agency 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, the department successfully achieved three of the 12 strategic measures identified in the settlement agreement. In accordance with the terms, the state 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. As of reporting period 11, the state has successfully exited from nine of the 12 progress measures. Past federal monitoring reports are available through Rhode Island's Office of the Child Advocate [website](#). In April 2023, the ACLU of Rhode Island [joined](#) the long-running suit.

Related Links

[Children's Rights](#)

South Carolina

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

Filed: January 2015

About the Case

Children’s Rights brought this suit against the South Carolina Department of Social Services and state officials on behalf of 11 named plaintiffs. The [complaint](#), which was certified as a class action, 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, the department signed a [settlement agreement](#) to resolve the lawsuit, and the court approved it in October 2016. The settlement requires the state to satisfy dozens of provisions relating to caseloads, investigations, placements, visitation, and health care.

The defendants presented improvement plans addressing all areas of the settlement agreement, which the court adopted and approved. 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.

Through mediation, the parties were to determine the implementation dates for other aspects of the settlement agreement. In 2021, the monitoring team expressed concern about the number of children staying overnight at hotels and Department of Social Services offices. In March 2022, the parties agreed to a [short-term plan](#) to address overnight stays and 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 the department requires more resources to make substantial improvements in its placements. The most recent monitoring [report](#), published October 2024, states that since the last reporting period, the emergency placement crisis has continued to grow with no signs of abating and that the placement crisis in some parts of the state is threatening other agency improvements.

Related Links

[Civil Rights Litigation Clearinghouse](#)

Tennessee

B.R. v. Quin

Filed: July 2023

About the Case

On July 24, 2023, Children’s Rights filed a lawsuit on behalf of immigrant children in Tennessee’s foster care system who do not have legal immigration 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 and that 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.

The parties filed a joint motion to grant approval of their [settlement agreement](#) and proposed order for dismissal on February 1, 2024. The court subsequently granted the motion on February 12, 2024, and retained jurisdiction for purposes of enforcement of the agreement.

Related Links

[Children's Rights](#)

Texas

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

Filed: March 2011

About the Case

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

Status Update

On January 19, 2018, the court entered a [final order](#) in the case that included an injunction against Texas. Following the state's appeal, the U.S. Court of Appeals for the Fifth Circuit issued [an opinion](#) on October 18, 2018, rejecting and 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 some parts and overturned other 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 its provisions. As of October 2024, the monitoring team has issued eight compliance reports and several issue-specific reports. Citing the state's noncompliance, the district court held the state in contempt in both [2019](#) and [2020](#) for violating its remedial orders.

On April 15, 2024, [the district court found](#) the Executive Commissioner of the Health and Human Services Commission in contempt of two remedial orders that provide for timely investigations. The state appealed, and a three-judge panel of the Fifth Circuit on October 11, 2024, [vacated](#) the contempt order, finding substantial compliance with two remedial orders. The panel of the Fifth Circuit also removed the district court judge from the case for "intemperate conduct on the bench."

The plaintiffs filed a petition for rehearing on October 25, 2024, the state filed its response on December 16, 2024, and the plaintiffs filed their reply brief on December 26, 2024. The matter is pending before the Fifth Circuit.

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 violated the rights of children in foster care who have behavioral health and developmental disabilities. The suit called on the department 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, the department issued an initial [exceptional placement plan](#) to address the number of children in foster care experiencing unstable placements that result in hotel and office stays. On June 6, 2022, the parties entered into a [settlement agreement](#) that laid out several system improvements to better provide for dependent children with behavioral health and developmental disabilities. An independent monitor has been assigned to review and report on the state's progress and is to issue an initial report to the parties on the state's compliance by February 18, 2025. The agency published its [final implementation plan](#) on May 31, 2023.

On February 2, 2024, the department published a [data addendum](#) that addresses the methodologies and metrics to be used in tracking the state's compliance and progress. The state released the final draft of the [semi-annual report](#) on August 29, 2024.

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 comprehensive remedial 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

The Connecticut Civil Liberties Union Foundation, Children's Rights Project of the American Civil Liberties Union, and Children's Rights brought this lawsuit on behalf of children in Connecticut who were in or were at risk of being in the custody of the Connecticut Department of Children and Families. [The complaint](#) alleged the department 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.

In January 1991, the parties reached a settlement and entered into a [consent decree that](#) required the 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

A revised [exit plan](#), approved in July 2006, specified 22 outcome measures that had to be met and sustained for six months before exit could occur. In March 2022, the parties filed [a motion to exit](#) court

oversight. Days later, the chief judge ruled that the defendants had met all the requirements and issued an order closing the case but maintained jurisdiction to oversee the closure of the court monitor's office, which occurred in April 2023.

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 on behalf of children in foster care or those known to the agency due to reported abuse or neglect. The [complaint](#) alleged that the department's failure to timely investigate reports of abuse or neglect and provide for the needs of children in foster care violated the plaintiffs' statutory and constitutional rights. In [April 1991](#), the 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 that decision, the District of Columbia entered into a consent decree to develop new procedures to investigate reported abuse or neglect and provide for the welfare of children in foster care. A Better Childhood later assumed representation for the plaintiffs.

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. Three months later, the court approved the plan, which included 19 outcomes to be achieved and reviewed monthly by a court monitor. The plan detailed that the defendants independently could petition the court to exit supervision after they had achieved all outcomes for two consecutive six-month reporting periods.

The district court, court monitor, and the plaintiffs' counsel came together in the summer of 2020 to reach a mutual agreement on exit commitments and timelines. In August 2020, the judge granted preliminary approval to the parties' proposed [settlement agreement](#), which provided that — absent the filing of an enforcement action alleging breach of the agreement — all claims would expire after six months following the submission of the defendants' final report on December 31, 2021. The court declared as final the proposed settlement agreement through an order issued on June 1, 2021, and after a year of data validation, a status hearing was held on September 9, 2022, during which all parties agreed the settlement was fair, reasonable, and adequate. Washington D.C. Mayor Muriel Bowser [announced](#) the official end of the case on the same day.

Related Links

[A Better Childhood](#)

[Civil Rights Litigation Clearinghouse](#)

Nevada

Henry A. v. Willden

Filed: April 2010

Closed: November 2015

About the Case

The National Center for Youth Law filed a lawsuit against various Nevada child welfare officials, 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 [reversed](#) the district court's ruling, allowing the litigation to move forward. In 2014, the parties entered into discussions that resulted in a [settlement agreement](#), inclusive of damages, and the court approved it. In November 2015, the plaintiffs filed a [stipulation](#) to close the case with the court retaining jurisdiction for enforcement of monetary awards, 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 federal Child Abuse Prevention and Treatment Act, the Early Periodic Screening Diagnosis and Treatment provision of the Medicaid Act, Section 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 into that required the New Jersey Department of Children and Families to achieve and maintain various performance measures. In March 2023, the court dismissed the case, stating that dismissal was appropriate in light of the progress the department had made in meeting many of the standards established through the litigation, the substantial commitments the agency had 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 (New York City)

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 City Administration for Children's Services on behalf of children in New York City's foster care system who

have been confined in psychiatric hospitals for prolonged periods of time. The [complaint](#) asserted that the agency 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, which gave its final approval in [February 2011](#). The agreement implemented new training programs for agency staff, improved placement policies, and monitoring requirements. In [June 2011](#), the court entered a settlement order that dismissed the case 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 extending another six months after June 30, 2016. The parties chose not to extend and the court's jurisdiction thus has expired.

Related Links

[Civil Rights Litigation Clearinghouse](#)

New York (New York City)

Marisol A. v. Giuliani

Filed: December 1995

Case Closed: August 2018

About the Case

Children's Rights filed a class action lawsuit on behalf of children in the custody of New York City's child protection agency and at-risk children who are known, or should have been known, to the agency. The [complaint](#), filed against New York City and the State of New York, 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. Allegations included that the defendants failed to: protect the children 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, and the U.S. District Court for the Southern District of New York [approved](#) both agreement 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, the 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. Seventeen years later, a status conference was held, which resulted in a [report](#) outlining the state's significant progress in complying with its settlement agreement. In August 2018, the court relinquished its jurisdiction over that agreement, and the entire case was 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 and the Ohio Department of Human Services on behalf of children in Ohio's foster care system. The complaint alleged that Hamilton County 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 the county's 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. In June 2016, the court found that the state completed all requirements and Ohio 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 on behalf of all children in Tennessee's foster care system, including a subclass of Black children in foster care. The [complaint](#) alleged that the agency had endangered the children's health and well-being as a result of its widespread deficiencies in placement practices, case manager support, and developmental and family support services. The complaint further claimed that agency's administration of services had a disproportionately negative impact on Black children in the foster care system.

Status Update

In July 2017, the court [approved](#) a modified settlement agreement and exit plan. The agreement created an independent commission, the Tennessee Accountability Center, to conduct oversight of the state agency. The 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 oversight and the case closed 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

Columbia Legal Services and the National Center for Youth Law filed this class action in state court against the Washington State Department of Social and Health Services 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 to 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 the state 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 therefore closed the case.

Related Links

[National Center for Youth Law](#)
[Civil Rights Litigation Clearinghouse](#)

Wisconsin (Milwaukee County)

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 child abuse, higher percentage of adoptions within 24 months of entering foster care, and more manageable caseloads. As a result, the county was released from 17 of the 18 enforceable agreement provisions. In 2021, a joint motion to terminate the settlement agreement and consent decree was filed, and in September of that year, the judge [granted](#) the motion.

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.

Alabama

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

Filed: May 2021

About the Case

Alabama Disabilities Advocacy Program, Southern Poverty Law Center, and Children's Rights brought this class action on behalf of children in foster care against the Alabama Department of Human Resources. The [complaint](#) alleged the department 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-like settings.

Status Update

In October 2021, the court granted the department's July 2021 motion to dismiss while allowing the plaintiffs to replead their claims, which they did in an [amended complaint](#) in November 2021. The court granted a joint motion to extend deadlines in August 2024. A mediation and settlement conference was held over two days in August and September 2024.

Related Links

[Children's Rights](#)

[Civil Rights Litigation Clearinghouse](#)

[Southern Poverty Law Center](#)

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 class action lawsuit on behalf of children in the state's foster care system. Defendants include the 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.

Status Update

In September 2023, the court issued an [order](#) granting in part and denying in part the defendant's motion to dismiss. In August 2024, the defendants filed another motion to dismiss, which was pending as of November 2024.

Related Links

[A Better Childhood](#)

[Civil Rights Litigation Clearinghouse](#)

California (Los Angeles County)

Ocean S. v. Los Angeles County

Filed: August 2023

About the Case

Children’s Rights and Alliance for Children’s Rights filed this case on behalf of transition-age youth in foster care in Los Angeles County. The [complaint](#), filed against both California and Los Angeles County human services agencies, alleged failures to fulfill their federal and state legal obligation to provide the youth with access to housing and support services. The complaint attributes a “foster care to homelessness pipeline” to the alleged failures.

Status Update

On November 29, 2023, the defendants filed several motions to dismiss, arguing lack of subject matter jurisdiction and failure to state a claim. On June 11, 2024, the court issued an [order](#) granting in part and denying in part the motions. An amended complaint was filed August 12, 2024, and another motion to dismiss was filed September 23, 2024, which has yet to be ruled on.

On November 8, 2024, the U.S. Department of Justice filed a [statement of interest](#) in the suit regarding the “integration mandate” that prohibits the needless institutionalization of individuals with disabilities.

Related Links

[Children’s Rights](#)

California (San Bernardino County)

Gary G. v. Newsom

Filed: May 2023

About the Case

This case filed on behalf of children in foster care is against the California Department of Social Services, San Bernardino County Child and Family Services, and state and county officials and agencies. The [complaint](#) focuses 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 complaint also included a subclass of children with disabilities, who the county allegedly has failed to support.

Status Update

In September 2024, the court issued an [order](#) granting in part and denying in part the defendants’ motion to dismiss. The court granted the California Department of Social Services motion to dismiss regarding the plaintiffs’ Section 1983 claims due to 11th Amendment immunity and granted California Gov. Gavin Newsom’s motion to dismiss for failure to make specific allegations against the governor.

Georgia

Isaac A. v. Carlson¹

Filed: January 2024

About the Case

The Georgia Advocacy Office, the National Health Law Program, and the Center for Public Representation filed [this class action](#) on behalf of Medicaid-eligible children against the Commissioners of the Georgia Department of Community Health, Department of Behavioral Health and Developmental Disabilities, and the Georgia Department of Human Services, claiming that Medicaid-enrolled children

with significant mental health needs are being systematically deprived of necessary services and unnecessarily institutionalized. Specifically, plaintiffs accuse the state of failing to provide intensive care coordination, intensive in-home services, and mobile crisis response services in violation of the children's rights under the Early and Periodic Screening, Diagnostic, and Treatment provisions of the Medicaid Act, Title II of the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act.

Status Update

The defendants' motion to dismiss is pending before the U.S. District Court for the Northern District of Georgia.

Related Links

[Civil Rights Litigation Clearinghouse](#)

Indiana

Annabel B. v. Governor Holcomb

Filed: August 2023

About the Case

A Better Childhood filed this case on behalf of children in foster care in Indiana. The [complaint](#) alleges that the Indiana Department of Child Services and the state as a whole fails to maintain the basic care and safety of children in foster care. The allegations include failure to recruit and retain caseworkers, failure to provide timely and appropriate medical treatment, and 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.

Status Update

In June 2024, the court granted the defendants' motion to dismiss, and in July 2024, the plaintiffs filed a notice of appeal with the Seventh Circuit Court of Appeals.

Related Links

[A Better Childhood](#)

Louisiana

Jacob B. v Louisiana Department of Children and Family Services

Filed: April 2024

About the Case

A Better Childhood filed this class action lawsuit on behalf of children in foster care against the Louisiana Department of Children and Family Services and elected officials. In addition to the general class of children in foster care, a subclass of children who have emotional, psychological, cognitive, and physical disabilities is called out in the lawsuit. The [complaint](#) alleges violations of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, along with significant system deficiencies such as: severe and chronic staff shortages that prevent case workers from adequately overseeing children in foster care; high caseloads with some caseworkers reporting over 100 cases; failing to provide appropriate mental health and medical assessments for children in foster care; placement instability; and a lack of safe and appropriate foster placements.

Status Update

In August 2024, the U.S. Department of Justice filed a [statement of interest](#) regarding the two federal law claims. The case is pending before the U.S. District Court for the Middle District of Louisiana.

Related Links

[A Better Childhood](#)

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 on behalf of children in the care of the state's child welfare system in three Maryland counties (Prince George, Baltimore, and Howard). The lawsuit was filed against officials of the Maryland Department Human Services and the Maryland Social Services Administration. The [complaint](#) alleges 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. It also alleges inadequate medical records, informed consent, and secondary review.

Status Update

The case is pending before the U.S. District Court for the District of Maryland.

Related Links

[Children's Rights](#)

New Hampshire

G.K. v. Sununu (Also known as B.D. 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 older youth in foster care who have mental disabilities placed in foster care due to parental abuse or neglect. The [complaint](#) alleges violations of federal constitutional and statutory rights caused by unnecessary placement in group and institutional settings without the benefit of an attorney or adequate case planning.

Status Update

In September 2021, the defendants filed a motion to dismiss for failure to state a claim on which relief may be granted. The court [granted](#) the motion with respect to plaintiffs' right to counsel and denied the remaining claims.

In March 2023, the plaintiffs filed a motion for class certification, which was [granted](#) on September 18, 2024.

Related Links

[Children's Rights](#)

[Disability Rights Center - NH](#)

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 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 failure to: provide intensive home and community-based mental health services; federally funded services specifically designed to prevent unnecessary institutionalization; and provide services in a timely or sufficient manner.

Status Update

The parties were to submit a proposed joint settlement agreement by December 4, 2024, and a settlement conference was scheduled for December 13, 2024. Discovery in the case is stayed through December 13, 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 safe reunification within a reasonable time; and properly address structural deficiencies in the New York City child welfare system. An amended complaint was filed in December 2015.

Status Update

In September 2021, the U.S. District Court for the Southern District of New York [denied](#) the renewed class certification. The 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’s denial of class certification.

In August 2024, the district court [granted in part and denied in part](#) the motion for class certification, denying both the “special scrutiny” and “compelling reasons” subclasses. The court [denied](#) the defendants’ motion to stay discovery and directed the parties to meet and confer by November 7, 2024, to proceed with discovery. In December 2024, the court denied the defendants’ motion for reconsideration of the court’s August 2024 order. Discovery is proceeding.

Related Links

[Civil Rights Litigation Clearinghouse](#)

[A Better Childhood](#)

North Carolina

Jameson v. Cooper (Also known as Bolch v. Cooper)

Filed: August 2024

About the Case

A Better Childhood filed a [class action complaint](#) against North Carolina state officials and two counties on

behalf of children in foster care, including an Americans with Disabilities Act subclass of children in foster care who have emotional, psychological, cognitive, or physical disabilities. The complaint alleges that the North Carolina Department of Health and Human Services: failed to license, recruit, and retain a sufficient number of foster homes, resulting in unsafe and inappropriate settings for children; experienced high caseworker turnover; experienced high re-entry and retention rates of children in foster care; and failed to properly provide children in foster care who have disabilities the services and supports needed. The complaint also sues Mecklenburg and Gaston counties for failing to provide safe and appropriate care to children in foster care.

Status Update

On October 10, 2024, each county filed a separate [motion to dismiss](#) on the basis of the plaintiffs' failure to state a claim. The court ordered the plaintiffs to respond to the motions or file an amended complaint by November 22, 2024.

Related Links

[A Better Childhood](#)

North Carolina

Timothy B. v. Kinsley

Filed: December 2022

About the Case

Children's Rights filed a [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 despite being eligible for integrated community-based housing and services. The complaint describes the facilities as "prison-like" institutions with traumatizing conditions, especially for children with disabilities who are particularly vulnerable to the overmedication, injuries, and abuse that often can occur in those facilities.

Status Update

On March 6, 2023, Children's Rights filed an [amended complaint](#), removing one of the named plaintiffs from the suit. Later in the same month, the defendants filed a motion to dismiss on the basis of the plaintiffs' failure to state a claim. In April 2023, the U.S. Department of Justice filed a [statement of interest](#) in the case regarding the legal standard for stating a claim under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, and addressed other claims made in the motion to dismiss. The motion to dismiss subsequently was [denied](#) on March 29, 2024. The case is ongoing as of November 2024.

Related Links

[Civil Rights Litigation Clearinghouse](#)

[Children's Rights](#)

Rhode Island

J."E."L. v. Charest

Filed: November 2024

About the Case

Children's Rights, the American Civil Liberties Union of Rhode Island, and Disability Rights Rhode Island filed this class action on behalf of Medicaid-eligible children against the Secretary of the Executive Office of Health and Human Services and the Director of the Rhode Island Department of Children, Youth and Families. Plaintiffs challenge the state's reliance on institutionalization of children in acute-care psychiatric hospitals and congregate care settings, claiming they have been denied medically necessary intensive

home and community-based services in violation of their rights under the Early and Periodic Screening, Diagnostic, and Treatment provisions of the Medicaid Act, Title II of the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. The [complaint](#) alleges that the state's failure to maintain a sufficient service array and implement policies and practices to ensure eligible children have access to services to which they are entitled results in children being unnecessarily institutionalized.

Status Update

The case is pending before the U.S. District Court for the District of Rhode Island.

West Virginia

Jonathan R. v. Justice

Filed: September 2019

About the Case

A Better Childhood filed a lawsuit against the West Virginia Department of Health and Human Resources, 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 in foster care from physical and emotional harm, discriminatory treatment of children in foster care who have disabilities, and inappropriate home placements.

Status Update

The defendants filed several motions to dismiss in 2019 and 2020. In response, 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, and the case was remanded to the district court to reconsider the plaintiffs' claims. The district court on August 17, 2023, subsequently [granted](#) class certification to both the general class and a subclass of children with disabilities. On August 25, 2023, the district court denied the department'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 the motion to dismiss the claims of one plaintiff for lack of standing.

The litigation is active and ongoing as of November 2024.

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 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

The department 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 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 court to dismiss the suit on jurisdictional grounds.

Related Links

[Civil Rights Litigation Clearinghouse](#)

South Dakota

Oglala Sioux Tribe v. 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 complaint](#) to challenge the continued removal of American Indian children in Pennington County from their homes based on insufficient evidence and without proper hearings, in violation of the Indian Child Welfare Act of 1978 and the constitutional right to due process.

Status Update

In March 2015, the 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 permanent 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 the Indian Child Welfare Act. 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 The inclusion of Isaac A. v. Carlson (Georgia), C.K. v. Bassett (New York), and J.“E.”L. v. Charest (Rhode Island) represents an expansion of our original report parameter of including class actions brought by or on behalf of children in foster care. We included these three cases because of an increase in Medicaid-based claims filed by plaintiff organizations that historically sought child welfare system reform. All children in foster care are Medicaid-eligible and therefore affected by the outcomes of these lawsuits, and improving access to and quality of community-based mental and behavioral health care can prevent children from being unnecessarily placed in foster care.

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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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