INFORMATION PACKET

HEALTHY ORGANIZATIONS

Can you share a summary of **child welfare consent decrees?**

Over recent decades, litigation has become an increasingly common means to try to "reform" what the public perceives as failing government systems. Cases are typically 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.[1]

For child welfare systems, this type of class-action lawsuit is typically resolved through a consent decree, or a judge's order based on an agreement between the parties, rather than continuing the case through trial or hearings. A consent decree gives a judge ongoing supervisory power to enforce the decree. As a result, litigation is significantly time consuming, with the average life span of a consent decree about 17 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.[2]

Currently, 15 child welfare agencies are operating under a consent decree or settlement agreement.[3] They are in varying stages, from those recently entering their settlement agreement to those in the final stages of their exit plan. Only six states[4] have successfully exited from a consent decree. In addition, 10 jurisdictions are currently pending litigation.[5]

casey family programs

The following summary is divided into three sections:

- Jurisdictions currently operating under consent decrees or settlement agreements;
- Jurisdictions where litigation is pending; and
- Jurisdictions that have exited consent decrees, where the case was dismissed, or where the case sunset.

The information includes the name of the lawsuit, date the lawsuit was filed, date the consent decree or settlement agreement was entered, summary of the case and reason for the class-action lawsuit, and an update on the case. This summary contains publicly available information, as well as a link to the monitoring reports. The information is current as of April 2019 and is updated periodically to capture significant changes.

Operating under consent decree or settlement agreement

California

Filing Date: December 2002
Decree Date: December 2011

Katie A v Bonta

Katie A v. Bonta is a class-action lawsuit against the state and Los Angeles County that was filed on July 18, 2002. The suit challenged the longstanding practice of confining abused and neglected children with unmet mental health needs in hospitals and large group homes instead of providing services that would enable them to stay in their homes and communities. The case was based on alleged violations of Medicaid and the Americans with Disabilities Act. At issue was the state and county's failure to provide wraparound and Therapeutic Foster Care — intensive home and community-based mental health services and supports — that are proven effective in allowing most children to remain safely at home or in a home-like setting.

LA County entered into negotiations and settled in March 2003. The settlement obligated the county to make comprehensive reforms, including 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. The settlement also mandated the immediate closure of the notorious MacLaren Children's Center and the reallocation of its funding to home and community-based programs.

Status Update/Comments
No updates available.

Related Documents:
Settlement Agreement

SMHS Reports 2019

Connecticut

Filing Date: December 1989
Decree Date: January 1991

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

This lawsuit charged that the Connecticut Department of Children and Families (DCF) was underfunded and understaffed, child abuse complaints were not investigated, high caseloads overwhelmed social workers, and the limited supply of foster parents were underpaid and inadequately trained. Plaintiffs brought claims under the reasonable efforts provisions of Title IV-E, the Due Process Clause, and the "right to liberty and family integrity" protected by the First, Ninth, and Fourteenth amendments.

Status Update/Comments
The current exit plan (approved in July 2006) contains 22 outcome measures that must be met and sustained for six months before exit.

The latest oversight status report covers October 1, 2017 – March 31, 2018. The Court Monitor's findings regarding the 2017 Revised Exit Plan Outcome Measures indicate that the Department maintained compliance with nine of the 14 measures during the Fourth Quarter 2017 and eight of 14 measures for

the First Quarter 2018. According to the report, of the measures that did not meet the established standards in these two quarters, the most concerning involve the Department's investigation practice, case planning process, meeting children and families service needs, appropriate visitation with household and family members of the agency's in-home cases, and excessive caseloads for Social Work staff.

Related Documents:
Juan F. v. Malloy Exit Plan Status Report

District of Columbia

Filing Date: June 1989
Decree Date: April 1993

LaShawn A. v. Dixon (Also known as LaShawn A. v. Bowser, v. Fenty, v. Williams)
Children's Rights, along with co-counsel ACLU of the Nation's Capital, filed this case against the mayor of the District of Columbia, the director of the D.C. Department of Human Services (DHS), and various officials within DHS on behalf of children in foster care or known to the D.C. child welfare system because of reported abuse or neglect. The complaint alleged violations of the plaintiffs' statutory rights under the Adoption Assistance and Child Welfare Act of 1980, the D.C. Prevention of Child Abuse and Neglect Act of 1977, the Child Abuse Prevention and Treatment Act, the D.C. Youth Residential Facilities Licensure Act of 1986, and the plaintiffs' constitutional rights to due process under the Fifth Amendment.

Status Update/Comments
The current implementation plan has been in place since December 2010 and includes approximately 92 separately measured exit standards divided into outcomes to be achieved and outcomes to be maintained. The most current monitoring report summarized findings on the performance of the District of Columbia's child welfare system for the period of January 1 through June 30, 2018. The LaShawn Implementation and Exit Plan (IEP) includes 85 Exit Standards that the District must achieve in order to seek exit from court supervision. Of these 85 measures, CFSA has previously achieved 70 (82%) Exit Standards and maintained required performance on all but four of those previously achieved this monitoring period. Of the 15 Exit Standards designated as Outcomes to be Achieved, between January and June 2018, CFSA newly achieved one Exit Standard (delivery of Medicaid numbers and cards to caregivers) and partially achieved two Exit Standards (social worker visits with parents and visits between parents and children).

Related Documents:
Center for the Study of Social Policy

Georgia

Filing Date: June 2002
Decree Date: July 2005

Kenny A. v. Perdue (Also known as Kenny A. v. Deal)
This lawsuit against Georgia's Department of Children and Family Services (DCFS) in Fulton and DeKalb counties sought to end statutory and constitutional violations of the rights of approximately 3,000 children and to ensure that DCFS provides proper protection and care for these children.

Status Update/Comments
Class counsel initiated discussions with state defendants' counsel in July 2015 to "streamline obligations in recognition of progress, remaining challenges and changes in best practices standards in foster care." Parties negotiated and agreed upon the 2016 Modified Consent Decree and Exit Plan. In December 2016, a federal judge in Atlanta acknowledged the state's improvement and the system's increasing stability and approved the Exit Plan that will provide a pathway out of the case in the next two to four years. The new agreement modifies several of the 31 performance measures set for the agency in

2005, including some that have become outdated and others that proved too difficult to meet and maintain.

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.

Some of the major outcomes findings during the January – June 2018 reporting period include:

- The region continues meeting the threshold for maltreatment in care, and Fulton County greatly reduced the number of children who experienced maltreatment in care during Period 25. Moreover, both counties made major improvements in timely initiating and completing investigations.
- Visitation is improving in many areas; however, both the counties continue struggling to meet DCFS policy requiring four visits in the first four weeks of a new placement.
- Juvenile court processes continue meeting or exceeding the consent decree requirements. However, there are many systemic challenges with ensuring that court orders are timely drafted, reviewed, signed, filed, and uploaded into SHINES.
- The first six months of 2018 indicate that children are not achieving timely permanency in Region 14.
- The counties have met or exceeded the Caseworker Continuity Measure (OM 12) for the third consecutive reporting period.
- Meeting the needs of children in care; the counties did a commendable job meeting identified medical, and educational/developmental needs of children; Fulton County fell short in meeting identified mental health and dental needs.

Related Documents:

Center for State and Local Finance

Period 25 Monitoring report

Illinois

Filing Date: June 1988
Decree Date: December 1991

B.H. v. McEwen (Also known as B.H. v. Samuels, v. Sheldon, v. Suter)

The B.H. v. McEwen civil rights suit was brought on behalf of all children who are or will 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 and with violations of the Constitution and Title IV-E of the Social Security Act.

Status Update/Comments

In September 2016, U.S. District Court Judge Jorge Alonso approved a proposed implementation plan in the ongoing B.H. v. Sheldon litigation. The plan is designed to assure that placements and services for those children under the care of DCFS meet appropriate constitutional standards. The implementation plan was initially filed with the court in February 2016.

This Amended and Revised Implementation Plan sets forth the specific steps DCFS will take to begin addressing the six recommendations and the specific needs of children and youth in care with psychological, behavioral, or emotional challenges. Additionally, in accordance with implementation science, each initiative contains a logic model that incorporates the expert panel's comments. The plan represents a core component of the overarching DCFS strategic plan, a draft of which has been published for public comment.

Illinois currently operates under more than 10 consent decrees/settlement agreements related to the child-welfare system.

Related Documents:

BH V. Sheldon

Implementation Plan

Report of the Expert Panel: B.H. vs. Sheldon Consent Decree

Maryland

Filing Date: December 1984
Decree Date: September 1988

L.J. v. Massinga

Plaintiffs filed this civil rights action against Maryland's Department of Human Services (DHS) on behalf of approximately 2,500 Baltimore foster children, seeking injunctive relief for class members and damages for the five named plaintiffs. Plaintiffs based their allegations of widespread, systemic abuses in the Baltimore foster care system in part on a study that randomly reviewed 149 cases, concluding that 25% of children were likely to have been mistreated in foster care. The study, with other evidence, documented major systemic problems, including inappropriate placement of children; low foster care payments; an insufficient number of homes combined with a lack of recruitment efforts; inadequate health care; failure to train foster parents and caseworkers; infrequent caseworker visits; and failure to provide services to children placed with relatives.

Status Update/Comments

In September 2009, defendants filed a motion to dismiss the existing consent decree and to oppose adoption of the proposed modifications they had negotiated. The District Court denied defendants' motion and entered the new consent decree. The Fourth Circuit affirmed unanimously and denied a motion for a rehearing, and on Nov. 28, 2011, the U.S. Supreme Court denied defendants' petition for a writ of certiorari. Thus, the Baltimore consent decree is alive and fully enforceable. Exit from court supervision is not available until Maryland has complied with all commitments for 18 consecutive months.

Related Documents:

Civil Rights Litigation Clearinghouse

Michigan

Filing Date: August 2006
Decree Date: 2008

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

This suit was filed against the state of Michigan for violating constitutional, federal statutory, and federal common law rights of children in foster care. The suit challenges the state for failing to move children quickly into safe, permanent homes; for failing to provide children with adequate medical, dental, and mental health services; and for failing to prepare children to live independently as adults after exiting the foster care system. The lawsuit charges 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/Comments

On February 2, 2016, the state of Michigan and the Michigan Department of Health and Human Services (MDHHS) and Children's Rights, counsel for the plaintiffs, jointly submitted to the court an Implementation, Sustainability and Exit Plan (ISEP) that establishes a path for the improvement of Michigan's child welfare system. The ISEP:

- Provides the plaintiff class relief by committing to specific improvements in DHHS's care for vulnerable children, with respect to their safety, permanency, and well-being;
- Requires the implementation of a comprehensive child welfare data and tracking system, with the goal of improving DHHS's ability to account for and manage its work with vulnerable children;
- Establishes benchmarks and performance standards that the state must meet to realize sustainable reform; and

- Provides a clear path for DHHS to exit court supervision after the successful achievement and maintenance of Performance Standards for each commitment agreed to by the parties in the ISEP.

The agreement includes 11 outcome measures to be maintained and 56 measures to be achieved, with various measures rolling to exit when achieved for specified timeframes.

On June 27, 2019, U.S. District Court Judge Nancy G. Edmunds approved a new agreement between MDHHS and Children's Rights, which replaces the ISEP approved in federal court in 2016. The Modified Implementation, Sustainability and Exit Plan reflects a number of changes sought by MDHHS. Examples include eliminating the state's time-consuming compliance reviews of cases over two years old, focusing efforts to prevent child maltreatment on the activities most directly related to stopping it, and shifting efforts for older youth from documenting planning activities to getting youth into effective programs, such as the Young Adult Voluntary Foster Care program.

In addition, at a March 2019 hearing Judge Edmunds asked MDHHS to make a decision about whether to replace or make incremental changes to the Michigan Statewide Automated Child Welfare Information System (MiSACWIS). MDHHS conducted an assessment of the current system and made the following core recommendations at the June 2019 hearing: (1) transition to a Platform-as-a-Service (PaaS) in place of continuing to invest in the current MiSACWIS technical infrastructure; (2) build the new system one area at a time with all team members focused on the same shared outcomes; and (3) reorganize the project to streamline accountability and prioritization structures.

Related Documents:

Michigan Department of Health and Human Services

Modified Implementation, Sustainability, and Exit Plan

Mississippi

Filing Date: March 2004
Decree Date: 2008

Olivia Y. v. Barbour

This lawsuit was brought on behalf of 3,000 foster children who are currently in the custody of the Mississippi Division of Family and Children's Services (DFCS) and the thousands more who are improperly diverted from the system. Plaintiffs allege that DFCS placed thousands of foster children in danger and at risk of harm, and has left many thousands more to fend for themselves in abusive and neglectful homes.

Status Update/Comments

The Civil Rights Clearinghouse at the University of Michigan Law School reported the following updates: The December 19, 2016, Second Modified Mississippi Settlement Agreement and Reform Plan (2nd MSA) laid out comprehensive new standards in (1) leadership; (2) child safety; (3) family-based placement; (4) placement standards; (5) visitation; (6) permanency; (7) transitions to adulthood; (8) child well-being; and administrative details of the settlement. It took effect on January 1, 2017. At the same time, the parties adopted a Stipulated Third Remedial Order (STRO). The STRO specified specific steps defendants were to take to meet their obligations. It also reiterated that defendants were not in compliance with the MSA but acknowledged that they lacked "the capacity to comply."

U.S. District Judge Tom Lee granted another motion for plaintiffs' attorneys' fees on July 21, 2017, largely rejecting defendants' objections that plaintiffs' fee requests were overly vague; another fee award was issued on April 9, 2018. On May 31, 2018, plaintiffs moved for an order declaring defendants in contempt for noncompliance with the STRO. In particular, they alleged that only 61% of defendant's employees met performance targets; the STRO required 90%. Over the next months, the parties engaged in discovery. The case is ongoing.

Related Documents:
Olivia Y. Lawsuit

Second MSA

New Jersey

Filing Date: August 1999
Decree Date: 2004

Charlie and Nadine H. v. Christie (Also known as Charlie and Nadine H. v. Corzine)
Plaintiffs filed this class action on behalf of children in the custody of the New Jersey Division of Youth and Family Services (DYFS). The complaint alleged violations of the children's constitutional rights and their rights under 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 (MEPA).

Status Update/Comments
A Sustainability and Exit Plan was entered in November 2015. According to a May 2017 Center for the Study of Social Policy report covering January-June 30, 2016, the monitor has assessed that six of the remaining To Be Achieved measures were met and one was partially achieved. Notably, the Department of Children and Families met the caseload standard for Intake workers during this reporting period for the first time since New Jersey's reform efforts began. The department has targeted stabilizing intake caseloads as a high priority and the achievement of this milestone demonstrates solid management and improved practices at the intake level.

The state has yet to reach targets related to fully embedding its case practice model, particularly in areas around engaging parents and the quality of case planning. Improving the frequency of caseworker visits with parents where family reunification is the goal is also a priority as well as ensuring that more visits occur among siblings who have been placed apart from one another. The state continues to expand the ways in which it shares state child welfare performance data with the public, launching the second phase of the Data Hub, the Data Portal, in November 2016. Critical indicators now available to the public include children served, total hotline referrals, number of children entering and exiting placement, and placement rates that can be sorted by living arrangement, age, county, race/ethnicity and gender.

According to the February 5, 2019 monitoring report, at the end of the monitoring period January-June 2018, DCF had met 41 of the 48 performance measures that are required as part of the court-ordered SEP. These 41 measures are currently classified as Outcomes "To Be Maintained." Of the seven measures still "To Be Achieved," three of them directly measure core elements of case practice (teaming, quality of case plans, and services to support transitions). Two of the measures still to be achieved involve visits between workers and parents when a child's goal is reunification and visits between children and siblings when they are placed apart. These are especially important because they measure how families and children interact with DCF and the child protective services system.

Related Documents:
Sustainability and Exit Plan

Charlie and Nadine H. v. Christie

Charlie and Nadine H. v. Murphy Progress Report XXII

Oklahoma

Filing Date: February 2008
Decree Date: 2012

D.G. v. Yarbrough
Children's Rights, along with Oklahoma law firms Fredric Dowart Lawyers, Seymour & Graham LLP, Day, Edwards, Propester & Christensen PC, and international firm Kaye Scholer, filed this case against the governor of Oklahoma and commissioner of the

Department of Human Services on behalf of the nine named plaintiffs and more than 10,000 children of Oklahoma who had been removed from their homes by the state. The litigation alleged violations of the constitutional rights of the children in the state's care by routinely placing them in unsafe, unsupervised, and unstable living situations, where they were frequently subjected to further maltreatment.

Status Update/Comments
DHS began Pinnacle Plan implementation in July 2012, six months after the Settlement Agreement was reached. The Pinnacle Plan was an ambitious five-year plan that included cutting down on placements, recruiting more foster families, lowering caseloads, eliminating shelter use, and raising worker salaries and foster family payments. A three-member monitoring panel oversees the agreement.

In the Eleventh Commentary issued to review progress made by the Oklahoma Department of Human Services during the period January 1, 2018, to June 30, 2018, the co-neutrals (three people charged with evaluating and rendering judgment about the ongoing performance of DHS to strengthen its child welfare system) found that DHS has made good faith efforts in 26 of 31 areas, representing a marked improvement from the previous period. In five areas, the evaluators find that DHS did not make good faith efforts to achieve substantial and sustained progress toward the target outcomes for this report period ending June 30, 2018. In several of these five areas, subsequent to the close of the report period, the co-neutrals have observed positive, emerging efforts by the department to achieve substantial and sustained progress toward the respective target outcome.

Related Documents:
The Oklahoma Pinnacle Plan

Co-Neutral 11th Commentary

Oregon

Filing Date: September 2016
Settlement Date: November 2016

A.R., a minor child, and B.C., a minor child, by their guardian ad litem Richard Vangelisti v. State of Oregon, et al.
The class-action suit alleges that the Department of Human Services' (DHS) increasing practice of housing some children in hotels and offices violates federal and state laws. A disproportionate share of the foster children placed in temporary quarters have mental disabilities including behavioral and psychiatric impairments, and the state has described them as "hard to place" with foster families and programs, according to the lawsuit. By housing these children in hotels, offices, and even a juvenile detention facility, the state denied them access to the family-like environment and stability that it's supposed to provide for all children in its care.

Status Update/Comments
On November 17, 2016, an interim settlement was reached between the agency and lawyers for foster children. A joint statement from DHS and Youth, Rights & Justice said the settlement stipulates that DHS won't place children in jails without charge or hospitals without a medical reason. DHS agreed not to house children in its offices unless there are no safe hotels nearby. Agency staff are also to take children in state custody staying at hotels or its offices to school or day care.

In May 2017, the plaintiffs broke off negotiations and cited the latest data on the number of children still sleeping in hotels or offices in a new filing as they seek to move ahead with the suit to block the state from placing abused or neglected foster children in hotels, agency offices, juvenile detention centers, or other unlicensed locations.

In February 2018, the state of Oregon and advocates representing children in foster care agreed to settle

the lawsuit aimed at ending the practice of temporarily lodging foster children in hotel rooms. The settlement agreement sets deadlines for dramatically reducing the practice of lodging children brought into state protective care in hotel and motel rooms or child welfare offices. It applies to all children in foster care.

Provisions include:

- Incrementally reducing the number of foster children who are temporarily lodged in hotel or motel rooms to no more than 24 per year statewide by the end of the year 2020.
- Children younger than age 11 may not be lodged in hotel rooms for more than five nights, and children ages 11 to 17 and in DHS care must spend no more than 12 nights in a hotel or motel, with limited exceptions.
- If children must be lodged temporarily at a hotel, DHS must ensure that the child is transported to school, with limited exceptions. Age-appropriate activities must be available to those who are not in school.
- DHS is not permitted to temporarily lodge children in child welfare offices, except under extremely limited circumstances.
- DHS has also agreed to hire an expert to uncover the root causes of these temporary emergency placements and to assist the agency and its partners in finding alternatives to the practice.

Related Documents:
Not available

Rhode Island

Filing Date: September 2007
Settlement Date: January 2018

Cassie M. v. Raimondo
This lawsuit charges Rhode Island's Department of Children, Youth and Families (DCYF) with failing to ensure the safety and well-being of more than 3,000 children in state custody. Plaintiffs' complaint alleges the following systemic problems: 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/Comments
In 2014, U.S. District Judge Mary M. Lisi granted a motion to dismiss the case, which defense lawyers had filed on behalf of the defendants, including Governor Lincoln Chafee and others sued as representatives of the Rhode Island Department of Children, Youth and Families. The defense had filed the motion in the aftermath of a 16-day trial, following more than six years of litigation brought by the plaintiffs with support from Children's Rights, a New York-based child advocacy group.

However, in March 2015 the U.S. Court of Appeals for the 1st Circuit found the district court "abused its discretion" in connection with its dismissal of the federal suit, vacated the ruling, and remanded the case for further proceedings. In August 2015, plaintiffs submitted an amended federal class-action lawsuit with the U.S. District Court in Rhode Island on behalf of the approximately 1,800 children in state foster care.

In January 2018 the parties reached a comprehensive settlement agreement to resolve the lawsuit and on May 9, 2018, a federal court in Providence approved the settlement agreement.

Related Documents:
Andrew C vs. Raimondo

South Carolina

Filing Date: January 2015
Decree Date: June 2016

Michelle H. v. Haley
A federal class-action lawsuit was filed by Children's Rights on behalf of 11 plaintiffs against Gov. Nikki Haley and the Department of Social Services (DSS), saying

a lack of heath care and other basic services was endangering children in the child welfare system. The complaint alleges Haley and DSS are responsible for drastic foster home shortages, excessive caseloads for agency workers and a failure to provide children with basic health care. The complaint further alleges that child maltreatment while in foster care goes without investigation, and inaccurate data masks a much higher rate of abuse and neglect than the state reports to the federal government.

Status Update/Comments
In June 2016, the Department signed a settlement agreement to resolve a class-action lawsuit filed against it in January 2015 by Children's Rights and South Carolina Appleseed Legal Justice Center. On October 4, 2016, U.S. District Court Judge Richard M. Gergel approved the settlement agreement signed by the parties after hearing testimony from DSS Director Susan Alford and other interested individuals. The consent decree requires the state to satisfy dozens of provisions relating to caseloads, investigations, placements, visitation, and health care.

The Monitoring Report for the period of October 1, 2017 – March 31, 2018, found the following areas of accomplishments and areas in need of improvement:

- DSS developed a Health Care Improvement Plan that will redesign the way health care services are organized and delivered to children in foster care and is intended to create the foundation necessary to meet the requirements of the FSA.
- DSS began work in January 2018 with Chapin Hall at the University of Chicago to conduct a data audit.
- The quality of the Out of Home Abuse and Neglect (OHAN) unit practice remains an area of significant concern.
- Improvements to DSS's placement array and processes are a significant focus of the FSA.
- In most months during the monitoring period, fewer than 25 percent of caseworkers had caseloads within the required limit.

Related Documents:
DSS Settlement Agreement

Monitoring Period III Report

Washington

Filing Date: November 1998
Decree Date: July 2004

Braam v. State of Washington
This case was originally filed by 13 current and former foster children against the state of Washington, the Department of Social and Health Services (DSHS), and the secretary of DSHS seeking damages for injuries plaintiffs suffered as a result of the state's practice of transferring them from one foster facility to another.

Status Update/Comments
The July to December 2016 review period includes monitoring of performance on the two remaining outcomes. The Children's Administration demonstrated improved performance on one of the two outcomes:

- Frequency of Youth on Runaway Status: 2.69% of youth in out-of-home care ran from their placement or placement facilities in 2016. The performance improved from 2.90% in the previous reporting period. (Full Compliance is 2.35% or less.)
- Median Number of Days Youth are on Runaway Status: The median number of days that youth were on runaway status was 54 days statewide, an increase from 41 days in 2016. (Full Compliance is 25 or fewer days.)

In June 2017, the state sought to revise the two reforms impacting youth missing from care, and then have the court find it in compliance with the revised measures. The Whatcom County Superior Court denied

the state's request to be excused from compliance with two remaining reforms that address youth missing from foster care. After denying the state's motion, the court asked that the state and the plaintiffs meet to further evaluate data and whether the reforms could be improved upon.

According to the Columbia Legal Services website, in February 2019 Whatcom County Superior Court approved a joint motion filed by the state and the plaintiff's counsel in the Braam v. State of Washington lawsuit revising the outcomes regarding youth who run away from foster care. The order signed by Judge Charles Snyder establishes three new measures to evaluate the state's success in preventing runaways and shortening the time youth are missing. The new measures set goals for addressing the needs of youth who run from care once, more than once, as well as focusing on the length of time a youth is missing from care.

Related Documents:
March 2017 Status Summary

Wisconsin

Filing Date: June 1993
Decree Date: December 2002

Jeanine B. v. Doyle (Also known as Jeanine B. v. Walker)
This suit against the governor of Wisconsin was brought on behalf of foster children and other victims of child abuse and neglect in Milwaukee County. The complaint alleged that plaintiffs did not receive timely and appropriate investigations of abuse/neglect, services to prevent entry into foster care, or appropriate case planning and services once they entered foster care. In addition, children were allegedly placed in inadequate and unmonitored foster homes, and lacked permanency planning. Children with disabilities in the foster care system were allegedly discriminated against in the provision of case planning and services. The lawsuit sought injunctive relief to ensure that the county's foster care system complies with federal statutory and constitutional law and with Wisconsin state law.

Status Update/Comments
As of December 2017, significant reform had been made in Milwaukee County, including: lower rate of abuse, higher percentage of adoptions within 24 months of entering care, and more manageable caseloads. They have been released from 17 of the 18 enforceable provisions.

The remaining provision is placement stability: At least 90% of children in Division of Milwaukee Child Protective Services custody within the period shall have had three or fewer placements during the previous 36 calendar months of their current episode in custody. In January-December 2017, they were performing at 87%.

Related Documents:
Jeanine B. Settlement Agreement Report of the Division of Milwaukee Child Protective Services January - December 2017

Pending litigation in courts

Arizona

Filing Date: February 2015

B.K. v. Flannagan
The suit, which names Charles Flanagan, director of the Department of Child Safety (DCS), and William Humble, director of the Department of Health Services (DHS) as defendants, alleges a severe shortage of health care services, an acute lack of 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 care.

The suit asks the court to ensure, among other things, that: children in foster care receive the health care services they need; DCS provides an adequate

number and array of foster care placements; DCS allows children in foster care to have adequate visitation with their family members; and DCS conducts timely investigations into reports that children have been maltreated in state care.

Status Update/Comments
The class was certified on September 30, 2017, and defendants appealed class certification. Juvenile Law Center, joined by 20 other advocacy organizations, filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit opposing defendants' effort to reverse the order certifying the class of children in B.K. and overturn the Ninth Circuit's prior decision in Parsons v. Ryan. The case is ongoing.

Related Documents:
B.K. v. McKay

Florida

Filing Date: February 2018

H.G. v Caroll
A class-action lawsuit was filed on behalf of the approximately 2,000 children in foster care, as well as all those who will enter foster care, whose cases originate in the "Southern Region." The case, H.G. v. Carroll, asserts that the state has long 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 (DCF).

According to the complaint, DCF "fails to maintain a remotely adequate number and variety of foster homes and other placements for the number of children in the system and their needs. As a result of DCF's failure to provide appropriate housing, children — including infants and toddlers — are deprived of the stability necessary to healthy growth as they are bounced between multiple homes, group homes, and facilities. Children are often moved 10, 20, 30, or more times in a short period. Infants and toddlers are warehoused in emergency shelters and group homes, robbing them of a family like environment. Children who have no clinical need are kept for months locked in psychiatric facilities solely because DCF has no other place to house them. Still others are housed "night to night" — kept in an agency office until late at night with little more than the clothes on their back, housed overnight wherever there's an empty bed and scooped up by a caseworker the next morning, only to repeat the cycle night after night."

A federal court in Tallahassee ruled on April 17, 2018, that a new class-action civil rights lawsuit targeting specific failings in the Miami-Dade/Monroe Counties' child welfare system should be allowed to proceed.

Related Documents:
Complaint

Indiana

Filing Date: June 2019

Ashley W. v. Holcomb
The class-action complaint was filed on June 25, 2019, in the U.S. District Court for the Southern District of Indiana, Evansville Division. It includes nine plaintiff children between the ages of 3 and 16 and names Gov. Eric Holcomb (R) and Department of Child Services (DCS) Director Terry Stigdon as defendants. The lawsuit alleges that DCS is inadequately assessing and responding to reports of child abuse and neglect and that the state lacks a sufficient placement array, which has led to an overreliance on institutional settings and emergency shelter care. It also claims that the state fails to adequately train, supervise and retain caseworkers and lacks a sufficient continuum of services necessary to meet the needs of children and families involved with its child welfare system.

The lawsuit is seeking to have the Indiana Southern District Court permanently prohibit DCS from practices that subject the plaintiffs to further harm and threaten their safety and well-being. Also, it is asking the court to order remedial relief to ensure the defendants comply with the law and provide the legally mandated services.

The lawsuit was filed jointly by the advocacy firm A Better Childhood, the law firm Kirkland and Ellis, and the nonprofit Indiana Disability Rights.

Status Update/Comments
Complaint filed.

Related Documents:
Ashley W. v. Holcomb Class Action Complaint

Kansas

Filing Date: November 2018

M.B. v. Coyler
The suit, M.B. v. Colyer, was filed by Kansas Appleseed, attorney Lori Burns-Bucklew, the National Center for Youth Law, and Children's Rights on behalf of the approximately 7,600 children who are currently or will be placed in the state's foster care system. The class-action suit alleges the state violated foster kids' rights by shifting them — some of them more than 100 times throughout their time in care — often from one single-night placement to the next. The suit says that renders kids in care effectively homeless.

Status Update/ Comments:
Complaint filed.

Related Documents:
Complaint

Minnesota

Filing Date: May 2017

T.F. v. Hennepin County
A class-action lawsuit has been filed in U.S. District Court on behalf of 10 minors against Hennepin County and seven county and state officials, citing the county's inability to protect abused and neglected children. The lawsuit defends two classes of children who have "suffered harm or risk of harm caused by the systemic failures of Hennepin County and responsible Hennepin County and State of Minnesota officials in implementing its child protection system."

The suit claims the county has failed to investigate reports that children have been abused or neglected, provide appropriate services to children and their families, and provide safe and appropriate foster care placements for children.

Status Update/Comments
Complaint filed.

Related Documents:
T.F. v. Hennepin County

Missouri

Filing Date: June 2017

M.B. v. Tidball
The first class-action lawsuit to shine a federal spotlight solely on the overuse of psychotropic medications among vulnerable, at-risk populations — such as Missouri's 13,000 children in foster care — the complaint alleges longstanding, dangerous, unlawful, and deliberately indifferent practices by the defendants, including:

- Failure to ensure that powerful psychotropic drugs are administered to children safely and only when necessary.
- Failure to maintain complete and current medical records for children in foster care and to provide those records to foster parents and health providers to ensure effective and well-informed treatment.
- Failure to maintain a secondary review system to identify and address high risk and outlier prescriptions to children when they occur.
- Failure to assure and document meaningful, informed consent in relation to the administration of these drugs.

Status Update/Comments
The lawsuit was filed in June 2017 by nonprofit litigator Children's Rights along with the National Center for Youth Law. In January 2018 U.S. District Judge Nanette

Laughrey ruled that a class-action lawsuit over Missouri's use of psychotropic medications for youth in foster care can continue. In July 2018 Judge Laughrey granted class-action status to the lawsuit.

On July 15, 2019, a federal judge gave preliminary approval to a settlement agreement. The proposed settlement agreement would require children on psychotropic medications to be checked on by a doctor at least every three months. The department must have medical records and medication history on file, and staff would need to undergo training on psychotropic drugs. The department also would be required to create a policy to trigger automatic reviews of children ages 4 or younger on antipsychotic medicine, as well as children ages 5 and older taking multiple psychotropic or antipsychotic drugs for more than 90 days at a time. U.S. District Judge Nanette Laughrey scheduled a final hearing on the agreement for November 20, 2019, to hear evidence and arguments to determine whether the proposed settlement is fair, reasonable, and adequate, and should be approved by the Court.

Related Documents:
M.B. v. Corsi

Complaint for injunctive and declaratory relief and request for class action

Notice of proposed class action settlement agreement

Joint Settlement Agreement

New Mexico

Filing Date: September 2018

Kevin S. v. Jacobson
On September 22, 2018, 13 foster children and nonprofit organizations Disability Rights New Mexico and Native American Disability Law Center filed a complaint on behalf of a class of trauma-impacted children in the custody of New Mexico's child welfare system. The complaint in Kevin S. v. Jacobson lays out the steps the state should take to make sure that children in foster care are adequately supported, including:

1) Screening for trauma and swift provision of appropriate, adequate, and coordinated behavioral and mental health services;

2) Consistent monitoring of children's health, behavioral health and treatment;

3) A holistic wraparound model that 1) facilitates collaboration between, and support for, those responsible for providing care and services, 2) ensures an individualized planning process for each child and (3) focuses on sustaining relationships;

4) A commitment of resources for additional case workers, mental health professionals, and foster parents with appropriate expertise and training to ensure stable and supportive placements.

Related Documents:
Complaint

New York City

Filing Date: July 2016

Elisa W. v. New York City
The lawsuit alleges that:

- The Administration for Children's Services (ACS) and the Office of Children and Family Services (OCFS) are causing irreparable harm to children in custody by failing to protect children from maltreatment, failing to ensure services provided are effective and of acceptable quality, and failing to ensure appropriate placements.
- ACS and OCFS fail to provide children in ACS custody with permanent homes and families and reunification within a reasonable time.

- The harms and risks that children in ACS custody suffer result from ACS and OCFS failing to properly address structural deficiencies in the New York City child welfare system.

Status Update/Comments
In October 2015, the state settled and agreed to the entry of another consent decree requiring the appointment of another monitor and research expert. The monitor, who will be in place for at least three years, will also keep track of any mistreatment of foster children. The research expert, who will be retained for at least two years, will conduct yearly reviews of case records for compliance.

In August 2016, the federal court declined to approve a settlement with the state. A Better Childhood's lawsuit against NYC's foster care system continues toward trial.

Related Documents:
Elisa W. v. City of New York

South Dakota

Filing Date: 2013

Oglala Sioux Tribe v. Luann Van Hunnik
Three Indian parents, the Oglala Sioux Tribe, and the Rosebud Sioux Tribe filed a class-action lawsuit to challenge the continued removal of Indian children in Pennington County, South Dakota, 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/Comments
In March 2015, Judge Jeffrey Viken issued a partial summary judgment in favor of the plaintiffs regarding emergency removal hearings, also known as "48-hour hearings," in Pennington County, South Dakota. The federal judge ruled that the state Department of Social Services, prosecutors, and judges "failed to protect Indian parents' fundamental rights" when they removed their children after short hearings and placed them largely in white foster care. A federal judge on February 19, 2016, denied South Dakota's motion to reconsider the March 2015 decision.

In August 2016, Viken convened a compliance hearing, which revealed the scope of the defendants' inaction. He followed in December 2016 with a finding that the defendants "continue to disregard his prior rulings" and ordered "an immediate halt" to further violations. This time his ruling was accompanied by a formal injunction, which means that 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. In a unanimous decision, the Eighth Circuit Court of Appeals set aside the ruling, saying Judge Viken went too far when he ordered the state to improve compliance with ICWA.

Related Documents:
Oglala Sioux Tribe v. Van Hunnik

Texas

Filing Date: March 2011

M.D. v. Perry
On March 29, 2011, Children's Rights of New York filed a federal lawsuit against Texas officials generally alleging constitutional violations against children in Permanent Managing Conservatorship (PMC) in the Department of Family and Protective Services (DFPS) and seeking to impose federal monitoring and oversight of the state foster care system. The suit is filed on behalf of nine plaintiffs who are alleged to represent more than 12,000 foster children in the permanent managing conservatorship of DFPS.

Status Update/Comments
According to A Better Childhood, in December 2015 a U.S. District Court found the Texas foster care system

unconstitutional because children were not free of an unreasonable risk of harm. The District Court found that children "almost uniformly leave state custody more damaged than when they entered." In December 2016, the court-appointed Special Masters recommended an overhaul to the Texas child welfare system including measures that would, among other things:

- Cut social service workers' caseloads in half to ensure children who have been permanently removed from their birth families receive proper attention;
- Have an up-to-date photograph of each child in the file so caseworkers can know who they are visiting;
- Halt use of foster group homes within one month of a court order implementing the Special Masters' plan;
- Reduce the risk of child-on-child abuse;
- Improve accountability to prevent future abuse, including installing landlines that foster children can use to report maltreatment;
- Improve services to children aging out of their permanent foster care placement; and
- Improve medical care available to foster children.

The judge entered an Interim Order in January 2017, finding that the state had not made fundamental changes in the system.

In December 2017, the district court judge entered her final order, adopting with some modifications the final recommendations the Special Masters made, ruling that the state was unwilling to make the necessary changes. The Fifth Circuit Court of Appeals upheld most of the liability finding in 2018, but vacated some of the remedial measures, and sent the case back to the district court to revise some of the remedies. The revised remedies are now before the Fifth Circuit, awaiting a final judgment. Meanwhile the case is stayed.

Related Documents:
M.D. v. Perry

Exited consent decree, case dismissed, or case sunset

Alabama

Filing Date: November 1988
Decree Date: December 1991

R.C. v. Wally
This case alleged that the Alabama Department of Human Resources (DHR) failed to preserve the families of and provide treatment to children with emotional or behavior disorders. Plaintiffs alleged that the state agency failed (1) to provide in-home supports and other services needed to preserve family unity; and (2) to provide appropriate care, treatment, and services after removal from home. Plaintiffs asserted that DHR violated their constitutional rights to family integrity, proper care while in state custody, adequate mental health care, reasonable efforts toward reunification, and freedom from discrimination on the basis of their disabilities in violation of § 504 of the Rehabilitation Act.

Status Update/Comments
In August 2005, DHR submitted a performance report and a second motion for an order terminating the consent decree. Following submission of the monitor's report, the court ordered the monitor to complete an extensive qualitative and quantitative review process to determine the counties' current compliance with the consent decree. In January 2007, the U.S. District Court for the Middle District of Alabama, Northern Division, terminated the consent decree in a 148-page order. Subsequently, the Eleventh Circuit upheld the lower court's decision.

Related Documents:
R.C. v. Wally

Accomplishments of the Alabama System of Care resulting from the RC Consent Decree

Memorandum Opinion and Order

Kansas

Filing Date: September 1990
Decree Date: May 1993

Sheila A. v. Whiteman

In January 1989, a Topeka child guardian filed a class-action suit (J.D.B. v. Barton) against the Kansas Department of Social and Rehabilitation Services (SRS) that focused on lack of adequate placements for children entering foster care. Plaintiffs alleged that the Kansas child welfare system violated Title IV-E, the federal Child Abuse Prevention and Treatment Act (CAPTA), the Federal Due Process Clause, the Kansas Code for Care of Children, and the Kansas Constitution. The Kansas system allegedly had a number of deficiencies, including the highest recidivism rate in the country, where children returned to their parents often needed to be placed again.

Status Update/Comments

In June 1992, defendants filed a motion to dismiss plaintiffs' Title IV-E claims. The motion was granted in October 1992. While the appeal was pending, the parties reached a settlement agreement in June 1993. The settlement agreement mandated wholesale changes in the Kansas child welfare system. Implementation of reforms under the settlement began in January 1994. Pursuant to the agreement, an internal departmental quality assurance unit was established to assess compliance and an independent state auditing agency, the Legislative Division of Post Audit, also was charged with conducting ongoing performance audits. Because of the state's success in implementing the settlement agreement, the state exited from the agreement in June 2002. SRS and plaintiffs agreed to replace the settlement agreement with internal monitoring from SRS's Quality Assurance Unit. The unit is responsible for overseeing the quality of SRS's supervision of children.

Related Documents:

Shelia A. v. Whiteman

Massachusetts

Filing Date: April 2010

Connor B. v. Patrick

This lawsuit was filed against the Massachusetts governor, the secretary of the Massachusetts Executive Office of Health and Human Services, and the commissioner of the Massachusetts Department of Children and Families. The complaint alleges that defendants are violating the constitutional rights of foster children by placing them in dangerous and unstable placements after removing them from their families' care. According to plaintiffs' complaint, Massachusetts's foster youth suffer abuse in state-supervised placements at almost four times the national average and a third of Massachusetts foster youth are moved between at least five different placements during their time in the foster care system. The complaint also alleges that the state has failed for the last decade to prepare and support adequately families for reunification.

Status Update/Comments

Dismissed on November 22, 2013:

U.S. District Court Judge William Young ruled that the plaintiffs had not shown that the constitutional rights of foster care children had been violated. In his opinion, Judge Young acknowledged real problems in the Massachusetts foster care system but noted that the problems arose largely from "budgetary shortfalls" rather than "management myopia" and stated that as taxpayers, "We are all complicit in this financial failure."

On December 15, 2014, the United States Court of Appeals for the First Circuit affirmed the District Court's granting of judgment on partial findings. Chief Judge Sandra Lynch concluded that the case "end[s] where we started, directing these matters to the attention of the state legislature and the Governor."

Related Documents:

Connor B. v. Patrick

Nevada

Filing Date: April 2010
Decree Date: July 2015

Henry A. v. Willden

Following the dismissal of Clark K. v. Willden, 13 foster children in Clark County, Nevada, filed this new lawsuit. Plaintiffs' complaint charges defendants with violation of state and federal statutes, and the due process clause of the U.S. and Nevada constitutions. The suit seeks monetary damages as well as systemic improvements on behalf of those children and three discrete classes. The classes include: (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. These classes constitute more than half of the approximately 3,600 children in foster care in Clark County (which encompasses over 70% of the Nevada population).

Status Update/Comments

The National Center for Youth Law first filed a lawsuit on behalf of Nevada's abused and neglected children in August 2006 in an attempt to improve Clark County's child welfare system. The court failed to certify the class because all plaintiffs had either aged out of the system or were adopted; however, the organization filed a new lawsuit in 2010. In 2012, The 9th Circuit Court of Appeals overturned the U.S. District Court's ruling that dismissed the lawsuit against Clark County. On February 27, 2013, U.S. District Court Judge Robert C. Jones of Nevada issued a decision clearing the way for the foster children in Henry A. v. Willden to proceed to trial.

According to the Civil Rights Litigation Clearinghouse at the University of Michigan Law School, in the spring of 2014, in the midst of trial preparation and shortly after the plaintiffs served their expert witness reports, the parties entered into settlement talks. The talks resulted in a settlement agreement of $2.075 million in damages, approved on November 18, 2014, and entered on January 9, 2015. About $1.6 million directly benefited the seven former foster children, while $500,000 covered attorney fees and costs for the plaintiffs' attorneys. On November 12, 2015, the plaintiffs filed a stipulation to close the case, and the district court granted the stipulation on November 16, 2015, closing the case.

Related Documents:

Henry A. v. Wilden

New Mexico

Filing Date: July 1980
Decree Date: September 1983

Joseph and Josephine A v. Bolton

On September 23, 1983, the court approved a consent decree. The consent decree set forth a detailed scheme for restructuring New Mexico's foster care system to establish permanent plans for foster children within six months of their entry into care. In addition, the decree contained provisions governing employee qualifications, social worker training, case planning, caseload size, adoptions, computerized records, citizen review boards, and monitoring of compliance.

Status Update/Comments

In 2003 the District Court signed and entered as a court order a new Stipulated Exit Plan (SEP), encompassing the parties' agreements in the Memorandum of Understanding. The external expert consultants met with the Children, Youth, and Families Department (CYFD) case managers every 60 days in cases where a child's permanency goal is adoption, to ensure adequate efforts are being made to recruit adoptive homes, finalize adoptions and find permanent families for children who need them. In 2005 Senior U.S. District Court Judge John Edwards Conway signed the order ending court oversight. The case was successfully concluded.

Related Documents:

Not available

Ohio

Filing Date: October 1983
Decree Date: August 1986

Roe v. Staples
This lawsuit concerns whether children in foster care and their parents received pre-removal and prompt reunification services consistent with their rights pursuant to federal child welfare statutes and the Fourteenth Amendment. Plaintiffs alleged that the Hamilton County Department of Human Services (HCDHS) failed to comply with Title IV-E, and that the Ohio Department of Human Services (ODHS) failed to properly monitor HCDHS's compliance with federal law.

Status Update/Comments
The consent decree had required the state to do the following: (1) Monitor county performance to ensure compliance with federal law, and (2) complete an assessment to quantify the number and types of services needed by families and children.

Ohio finally resolved the monitoring component of the decree in 2015, over 30 years after execution of the initial decree. On June 27, 2016, U.S. District Judge Timothy Black announced that the state completed all requirements and Ohio had successfully exited from the consent decree.

Related Documents:
Not available

Tennessee

Filing Date: May 2000
Decree Date: July 2001

Brian A. v. Sundquist (Also known as Brian A. v. Haslam)
Plaintiffs filed this lawsuit on behalf of more than 9,000 foster children in the legal custody of Tennessee's Department of Children's Services (DCS), alleging that DCS systematically failed to provide Tennessee's foster children and their families with legally required placements and services. The lawsuit sought to end ongoing violations of the rights of the plaintiff class that endangered their health and well-being and to ensure that DCS provides proper protection and care for these children.

Status Update/Comments
On July 18, 2017, U.S. District Judge Waverly Crenshaw approved an agreement in the lawsuit filed in 2000 by Children's Rights. An independent commission will still conduct oversight of DCS for 18 months, according to the terms agreed to by DCS and Children's Rights.

Since the entry of that order, the External Accountability Center has published three public reports at six-month intervals covering the 18-month period from January 1, 2017, through June 30, 2018.

Related Documents:
Tennessee Accountability Center Report 2

Tennessee Accountability Center Report 3

Utah

Filing Date: 1993
Decree Date: 1994

David C. v. Huntsman
The lawsuit alleged that the state's treatment of these children violated federal and state law because they were placed in unsafe living conditions and not provided with the services and supports to which they were entitled. The lawsuit was filed by the National Center for Youth Law against the governor of Utah, the director of the Department of Human Services, and the director of the Division of Child and Family Services.

Status Update/Comments

On May 14, 2007, the parties submitted a new agreement that would replace the Milestone Plan. Under the terms of the new agreement the case would be dismissed without prejudice on June 28, 2007. The agreement also provided that if the defendants continued to comply with the material terms, the lawsuit would be dismissed with prejudice in December 2008 and no further relief would be available to the plaintiffs through this lawsuit. In January 2009, the federal court dismissed with prejudice the David C. lawsuit.

Related Documents:

David C. v. Huntsman

1. Bursch, J., Corrgian, M. (2016). Rethinking consent decrees: How federal court decrees in child welfare can harm those they are supposed to help and upset the federal-state balance. Washington, DC: American Enterprise Institute.
2. Examining sue and settle agreements: Part II: Joint hearing before the Subcommittee on Intergovernmental Affairs and Subcommittee on Interior, Energy and the Environment, of the House Committee on Oversight and Government Reform, 115th Cong. (July 25, 2017) (testimony of David Sanders). Retrieved from https://docs.house.gov/meetings/GO/GO04/20170725/106338/HHRG-115-GO04-Bio-SandersD-20170725.pdf
3. CA, CT, DC, GA, IL, MD, MI, MS, NJ, OK, OR, RI, SC, WA, and WI.
4. AL, KS, NM, OH, TN and UT.
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