

## Details Regarding Selected Private Lawsuits Challenging State Compliance with Federal Child Welfare Laws

Jurisdiction/ Case Name	Allegations	Date filed	Year of settlement/order	Total years case open	Other details
<b>California (1)</b> <i>Ca. Alliance of Child &amp; Family Services v. Allenby</i>	<ul style="list-style-type: none"> <li>Failure to provide adequate foster care maintenance payments to group homes</li> </ul>	6-30-2006	Permanent injunction granted 2-24-2010; appeal affirmed on 4-5-2011	5 years	Associations filed suit on behalf of all 1,732 facilities serving 12,500 foster children; 9 <sup>th</sup> Cir. affirmed district court's permanent injunction increasing rates to group homes.
<b>California (2)</b> <i>Ca. State Foster Parent Association v. Wagner [Lightbourne]</i>	<ul style="list-style-type: none"> <li>Failure to provide adequate foster care maintenance payments to foster family homes (leading to children being placed in congregate care solely due to lack of foster family homes)</li> </ul>	10-3-2007	10-21-2008 order granting Plaintiff's motion for summary judgment; 5-27-2011 order compelling state immediately to raise rates to specific amounts	3.5 years	Associations filed suit on behalf of all foster care families, serving approximately 8,000 children; 9 <sup>th</sup> Cir. affirmed district court's order; later proceedings were required to compel state to increase rates.
<b>California (3)</b> <i>California Alliance of Child &amp; Family Services v. Lightbourne</i>	<ul style="list-style-type: none"> <li>Failure to provide adequate foster care maintenance payments to foster family agencies</li> </ul>	3-6-2012		0.25 year; case referred to mediation on 6-6-12	Associations filed suit on behalf of all 250 FFAs, serving approximately 25,000 children.
<b>California (4)</b> <i>E.T. v. Cantil-Sakauye</i>	<ul style="list-style-type: none"> <li>High caseloads of attorneys representing children in dependency court</li> </ul>	7-16-2009	Petition for writ of certiorari filed with Supreme Court 7-11-12	3 years; petition for cert to U.S. Supreme Court pending	Class action on behalf of 5,100 children in dependency court system in Sacramento County (only 1 of 58 counties); district court abstained; 9 <sup>th</sup> Cir. panel affirmed; 9 <sup>th</sup> Cir. en banc affirmed; on petition for writ of cert to United States Supreme Court.
<b>Connecticut</b> <i>Juan F. v. Malloy</i>	<ul style="list-style-type: none"> <li>Slow response time to complaints of abuse/neglect</li> <li>Caseworkers poorly trained, carrying high caseloads, and with high turnover</li> <li>Children in foster care denied essential treatment and supportive services, especially mental health services</li> <li>Services to allow children to remain with their families or to be safely reunited were rarely provided</li> <li>Foster children not receiving services to find permanent homes</li> </ul>	12-19-1989	1-7-1991	23 years; still being monitored	Consent decree appealed to the 2nd Cir., affirmed in 1994; monitors continually report the state's failure to comply with Transition/Exit plan; 3 governors are in office during case's life; contempt proceedings initiated against the state twice.
<b>District of Columbia</b> <i>LaShawn A. v. Gray</i>	<ul style="list-style-type: none"> <li>Children placed in emergency shelters for prolonged periods (even years) due to lack of foster family homes</li> <li>Placement instability</li> <li>Caseworkers poorly trained and carry high caseloads, and fail to visit children</li> <li>Failure to provide reunification services or develop adoptive homes for children</li> <li>Children denied medical and mental health care and psychotropic medications administered to "control" children</li> <li>Abuse reports not investigated</li> </ul>	6-20-1989	Court ruled D.C. foster care system violated federal law, District law and U.S. Constitution in 1991, Remedial Order entered 11-1993 (negotiated settlement post-appeal)	23 years; still being monitored	District appealed trial court's findings of violation and 2 years later the U.S. Court of Appeals for the District of Columbia affirmed; in May, 1995 the district court placed the District's child welfare system into receivership and removed control from the District's government for 6 years; The District has been found in contempt twice.

Jurisdiction/ Case Name	Allegations	Date filed	Year of settlement/order	Total years case open	Other details
<b>Georgia</b> <i>Kenny A. v. Perdue</i>	<ul style="list-style-type: none"> <li>Children languished in emergency shelters without receiving treatment or services, and were exposed to violence, sexual assault and illegal drug activity</li> <li>Caseworkers poorly trained and with high caseloads, and fail to visit children</li> <li>Placement instability</li> <li>Children placed in institutional settings due to lack of foster family homes</li> <li>Children not provided with adequate educational and health care services</li> <li>Failure to provide foster parents adequate payments</li> <li>Attorneys representing children carried caseloads of 400-500 children per attorney</li> </ul>	6-6-2002	7-5-2005	10 years; still being monitored	Limited to only 2 of 159 counties in Georgia (3,000 children) (DeKalb and Fulton Counties, in the Atlanta metro area); in Feb. 2005, in denying counties' motion for summary judgment, District Court ruled children have constitutional and statutory right to attorney and adequate legal representation at every major stage of their experience in state custody.
<b>Kansas</b> <i>Sheila A. v. Finney</i>	Not adequately caring for abused children	9-1-1990	Settlement Agreement entered 5-12-1993	(at least 3 years to settlement, with post settlement court supervision time unknown)	State court case filed in Shawnee County; after the settlement, the state privatized its child welfare services in 1996.
<b>Louisiana</b> <i>Del A. v. Edwards</i>	<ul style="list-style-type: none"> <li>Failure to make reasonable efforts to prevent separation</li> <li>Failure to provide children with adequate case plans and reviews</li> <li>Failure to maintain a reliable information system tracking the number of children in foster care and their placements</li> </ul>	2-25-1986	Trial occurred in 1989	3 years	Suit was filed on behalf of thousands of children in foster care or at risk of being placed in foster care in Louisiana; Litigation resulted in decision for defendants; defendants admitted the violations presented at trial and improved the state child welfare system with increased funding and more staff.
<b>Massachusetts</b> <i>Connor B. v. Patrick</i>	<ul style="list-style-type: none"> <li>Abuse of children while in foster care (4<sup>th</sup> worst rate nationally)</li> <li>Placement instability</li> <li>Children with permanency plans of adoption are not adopted</li> <li>Children age out with no permanent home and are inadequately prepared to live independently as adults</li> <li>1 in 6 children reunified with their families re-enter foster care due to further abuse/neglect</li> </ul>	4-15-2010	Trial set for 1-2013	2.25 and still open	Class action on behalf of 8,500 abused and neglected children statewide; 900 per year "age out" with no permanent home
<b>Michigan</b> <i>Dwayne B. v. Snyder</i>	<ul style="list-style-type: none"> <li>Placement instability</li> <li>Failure to provide foster parents adequate payments leads to lack of foster family homes</li> <li>Caseworkers have high caseloads</li> <li>Children don't receive health and mental health services</li> <li>Children are reunified with their families at extremely slow pace</li> </ul>	8-8-2006	Settlement Agreement signed 7-3-2008, entered as court-enforceable Consent Decree 10-24-2008; modified Consent Decree entered 7-18-2011	6 years; still in monitoring	7 <sup>th</sup> largest foster care system in the nation, with 17,000-19,000 children in foster care.

<b>Jurisdiction/ Case Name</b>	<b>Allegations</b>	<b>Date filed</b>	<b>Year of settlement/order</b>	<b>Total years case open</b>	<b>Other details</b>
<b>Mississippi</b> <i>Olivia Y. v. Barbour</i>	<ul style="list-style-type: none"> <li>• Children placed in institutional settings due to lack of foster family homes</li> <li>• Caseworkers poorly trained and carry high caseloads</li> <li>• Children not provided with reunification services and appropriate adoptive homes not developed for children in foster care</li> <li>• Failure to investigate reports of abuse/neglect or failure to provide services for confirmed cases of abuse/neglect</li> </ul>	3-30-2004	Stipulated settlement entered by court 6-15-2007; final settlement agreement and reform plan entered by court 1-4-2008	8 years; still in monitoring	3,300 to 3,500 children in foster care; after 3 years of vigorous litigation, parties settled 6 weeks before trial, with state agreeing to no longer contest that it was violating the substantive due process rights of the plaintiff foster children; in May 2011 the court found the state failed to make substantial progress in meeting the requirements of the settlement agreement and ordered the parties to negotiate modifications of the SA and reform plan to address management deficits and the slow pace of reform.
<b>Missouri (1)</b> <i>G.L. v. Sherman</i>	<ul style="list-style-type: none"> <li>• Children placed in foster homes that were licensed and maintained without adequate investigation and supervision</li> <li>• High rates of abuse/neglect of children in foster homes</li> <li>• Children denied proper medical and psychological care</li> <li>• Placement instability</li> </ul>	7-25-1980	Consent Decree entered 3-21-1983; amended Consent Decree entered 1-30-2001; case dismissed and court oversight ended 2-1-2006, upon condition that state committed to and maintained reforms through 2009.	29 years	Class action on behalf of all children in foster care in Jackson County (Kansas City, MO); 9 years after consent decree, state was held in contempt for years of failure to comply with Consent Decree's terms.
<b>Missouri (2)</b> <i>E.C. v. Sherman</i>	<ul style="list-style-type: none"> <li>• State bill would cut or eliminate critical adoption subsidies for thousands of special needs foster children who had already been adopted</li> <li>• State bill would disqualify thousands of special needs children in foster from receiving adoption subsidies, damaging their chances for finding a permanent adoptive home</li> </ul>	8-15-2005	8-4-2006 Permanent Injunction issued, which remains in place	1 year	Adoption subsidy provisions in Missouri Senate Bill 539 violated federal rights of abused and neglected, special needs foster children and federal judge forever prohibited implementation of the adoption subsidy provisions of the bill. State appealed preliminary injunction, which the 8 <sup>th</sup> Circuit later dismissed as moot after full trial and entry of permanent injunction.
<b>Nevada (1)</b> <i>Clark K. v. Willden</i>	<ul style="list-style-type: none"> <li>• Severely overcrowded and unsafe conditions at an unlicensed facility, which failed to meet the mental health and other medical needs of the children housed there</li> <li>• High caseloads and inadequate caseworker training</li> <li>• Inadequate investigations of abuse/neglect reports</li> <li>• Abuse/neglect of children in foster care and failure to respond to complaints of abuse/neglect by foster parents</li> <li>• Insufficient foster parent recruitment efforts, inappropriate placements, lack of foster parent training and little or no support or monitoring of foster parents</li> <li>• Lack of representation of children in dependency court proceedings</li> <li>• Failure to provide appropriate educational services</li> </ul>	8-30-2006	10-27-2009	3 years, without resolution on the merits; the case's allegations were resumed in a later suit, which is still ongoing 6 years after <i>Clark K.</i> began	Class action on behalf of 3,600 children in the legal custody of Clark County (Las Vegas), but court denied class certification; Plaintiffs later dismissed the case when they all had either aged out of the system or had been adopted. <i>Henry A. v. Clark</i> (see below) was filed shortly thereafter to resume the claims on behalf of the children in Clark County's foster care.

<b>Jurisdiction/ Case Name</b>	<b>Allegations</b>	<b>Date filed</b>	<b>Year of settlement/order</b>	<b>Total years case open</b>	<b>Other details</b>
<b>Nevada (2)</b> <i>Henry A. v. Willden</i>	<ul style="list-style-type: none"> <li>• Failure to provide foster parents information about children's health and behavioral background</li> <li>• Failure to provide medical and mental health services to children in foster care</li> <li>• Failure to investigate relatives before placement and failure to monitor relative placements</li> <li>• Abuse/neglect of children in foster care and failure to respond to complaints of abuse/neglect by foster parents</li> <li>• Failure to comply with law and policies regarding transferring foster children to out-of-state placements</li> <li>• Failure to develop case plans for each child in foster care</li> <li>• Failure to provide all children in dependency court proceedings with a <i>guardian ad litem</i></li> <li>• Failure to provide foster children with early intervention services</li> </ul>	4-13-2010		2 years and still open, having just been reinstated by the 9 <sup>th</sup> Cir.	Class action on behalf of 3,600 children in the legal custody of Clark County (Las Vegas); district court dismissed case on sovereign immunity grounds on 10-26-2010, but 9 <sup>th</sup> Cir. reversed and reinstated the case as of 5-4-2012.
<b>New Jersey</b> <i>Charlie and Nadine H. v. Christie</i>	<ul style="list-style-type: none"> <li>• Children placed in emergency shelter for prolonged periods due to lack of foster family homes</li> <li>• Caseworkers poorly trained and carry high caseloads, and fail to visit children</li> <li>• High rate of abuse/neglect of children in foster care</li> <li>• 1 in 4 children leaving foster care re-enter at a later date</li> <li>• Children in foster care not receiving medical or mental health treatment</li> </ul>	8-4-1999	Settlement reached 6-23-2003; entered as court-enforceable order 9-2-2003; Modified Settlement Agreement entered by court 7-18-2006	13 years; implementation ongoing	11,000 children in foster care and 48,000 children known to DYFS through reports of abuse/neglect.
<b>New Mexico</b> <i>Joseph A. v. Bolson</i>	<ul style="list-style-type: none"> <li>• Caseworkers poorly trained, preventing them from making better permanency planning decisions for children</li> <li>• Children languished for years in foster care due to failures to create permanency plans and facilitate children's exit from foster care</li> <li>• Children were not timely freed for adoption and matched with adoptive homes</li> </ul>	3-28-1977	Consent Decree entered 9-23-1983; new Consent Decree entered 2-6-1998; further new consent decree entered 9-27-2003; case finally closed 2-24-2005	29 years	Class action lawsuit concerned the 2,000 children in foster care, but focused on "those children needing adoption but for whom little effort was made to secure permanent adoptive homes"; the district court granted the state's motion to dismiss in 1995 (based on alleged substantial compliance with the Consent Decree), but the 10 <sup>th</sup> Cir. vacated and reinstated the case; the case was again later dismissed and reinstated.

<b>Jurisdiction/ Case Name</b>	<b>Allegations</b>	<b>Date filed</b>	<b>Year of settlement/order</b>	<b>Total years case open</b>	<b>Other details</b>
<b>New York</b> <i>Marisol v. Giuliani</i>	<ul style="list-style-type: none"> <li>• Inadequate caseworker training, support and supervision</li> <li>• High caseworker caseloads and frequent turnover</li> <li>• Children in inappropriate placements due to shortage of foster family homes</li> <li>• High rates of abuse/neglect of children in foster care due to poor foster home oversight and investigation</li> <li>• Failure to provide children medical, mental health and educational services</li> <li>• Failure to investigate reports of abuse/neglect, even from credible sources such as doctors or teachers</li> </ul>	12-13-1995	Separate settlement agreements with the City and State were entered by the court on 3-31-1999 and the court officially closed the case on that date, but monitoring continued	13 years (the City case closed earlier but the State case monitoring continued through 7-1-2008)	Class action filed against New York City and the State of New York on behalf of the nearly 100,000 children living in the City's child welfare system; 2 <sup>nd</sup> Cir. affirmed class certification; City also appealed to 2 <sup>nd</sup> Cir. to prevent court-ordered Case Review Team's reports from being made public; 2 <sup>nd</sup> Cir. affirmed district court's approval of Settlement Agreements; the court twice found the State out of compliance with the State Settlement Agreement.
<b>Oklahoma</b> <i>D.G. v. Henry</i>	<ul style="list-style-type: none"> <li>• Caseworkers poorly trained and carry high caseloads, and fail to visit children</li> <li>• Failure to recruit, retain and adequately reimburse foster parents</li> <li>• Rates of abuse/neglect of children in foster care is the worst in the nation</li> <li>• Placement instability</li> <li>• Children placed in overcrowded emergency shelters for prolonged periods</li> </ul>	2-13-2008	1-4-2012	4 years; in active monitoring by court	10,000 children in foster care statewide; case settled 6 weeks before trial.
<b>Rhode Island</b> <i>Cassie M. v. Chafee</i>	<ul style="list-style-type: none"> <li>• Abuse of children while in foster care</li> <li>• Children placed in large, orphanage-like settings due to lack of foster family homes</li> <li>• Failures to achieve permanency</li> <li>• Failures to provide children mental health, medical and dental services</li> <li>• 15% of children reunified with their families re-enter foster care due to further abuse/neglect</li> <li>• Caseworkers have dangerously high caseloads and fail to visit children</li> <li>• Children placed in unlicensed foster homes</li> </ul>	6-28-2007	In discovery stage	5 years and still open (only now in discovery stage)	Class action on behalf of over 3,000 children in foster care statewide; motion to dismiss was granted April, 2009 but reversed on appeal (1 <sup>st</sup> Cir.) and reinstated June, 2010.
<b>Tennessee</b> <i>Brian A. v. Haslam</i>	<ul style="list-style-type: none"> <li>• Children placed in overcrowded emergency shelters for prolonged periods due to lack of foster family homes</li> <li>• Placement instability</li> <li>• Caseworkers poorly trained and carry high caseloads, and fail to visit children</li> <li>• Failure to provide reunification services or develop adoptive homes for children</li> <li>• Children placed in large, institutional settings (up to 250 beds in one facility) due to lack of foster family homes</li> </ul>	5-10-2000	Settlement Agreement entered 5-2001; court approved and adopted Settlement Agreement 7-20-2001	12 years; still being monitored (although the court lists case as officially closed 7-26-2001, the court has entered a modified settlement agreement as recently as 10-26-11 and granted plaintiff's counsel attorneys' fees for 2009-2011 in 2-2012, and a new compliance monitor's report was filed 7-9-2012	9,000 children in foster care statewide.

<b>Jurisdiction/ Case Name</b>	<b>Allegations</b>	<b>Date filed</b>	<b>Year of settlement/order</b>	<b>Total years case open</b>	<b>Other details</b>
<b>Texas</b> <i>M.D. v. Perry</i>	<ul style="list-style-type: none"> <li>• Placement instability</li> <li>• Children placed in institutional settings due to lack of foster family homes</li> <li>• Failures to achieve permanency</li> <li>• Youth in group homes and institutions at higher risk of abuse and neglect while in state custody than youth in other placements</li> </ul>	3-29-2011	Pending new hearing on motion for class certification; in discovery stage	1.25 years, in discovery stage	Class action filed on behalf of children in foster care; class certification appealed to 5 <sup>th</sup> Cir., reversed and remanded March, 2012 for district court to perform rigorous analysis of commonality required by <i>Wal-Mart v. Dukes</i> (currently set for class action certification hearing December 2012).
<b>Utah</b> <i>David C. v. Huntsman</i>	<p>The complaint addressed nearly all aspects of the state's child welfare services system, including:</p> <ul style="list-style-type: none"> <li>• abuse and neglect investigations and child protective services</li> <li>• quality and safety of out-of-home placement</li> <li>• health care and mental health care for foster children</li> <li>• caseloads and staff training</li> <li>• case planning, case review, and permanency planning</li> </ul>	2-25-1993	1993 Settlement Agreement entered; further Stipulation and Order entered 2003; case closed 12-31-2008	15.75 years	Class action on behalf of all children reported as abused/neglected and all children in foster care in Utah; 1998 order finding Utah in violation of Settlement Agreement and requiring specific remedial actions appealed to and affirmed by 10 <sup>th</sup> Cir.
<b>Washington</b> <i>Braam v. State of Washington</i>	<ul style="list-style-type: none"> <li>• Placement instability</li> <li>• Failure to adequately train, inform, support, supervise, and oversee foster parents</li> <li>• Failure to provide sufficient numbers of reasonably safe and adequate foster care placements, homes, and programs</li> <li>• Failure to provide a sufficient number of adequately trained staff to visit and supervise foster homes and placements</li> <li>• Failure to provide children in foster care with mental health services</li> <li>• Unnecessary and inappropriate separation of siblings in foster care</li> </ul>	11-3-1998; Amended Complaint adding class claims filed March 2000	7-2004 Settlement Agreement approved by court; Revised Exit and Settlement Agreement entered in 11-2011	13.5 years; still in monitoring until 12-31-2013	Class action filed in state court (Whatcom County) on behalf of all children in foster care who had been moved to three or more placements while in the state's custody; a jury trial in 2001 resulted in a verdict for the plaintiffs; on appeal in the Washington Supreme Court the verdict was reversed and the case remanded for a non-jury trial (2003); a comprehensive settlement agreement was reached in 2004 and renegotiated in 2011.
<b>Wisconsin</b> <i>Jeanine B. v. Walker</i>	<ul style="list-style-type: none"> <li>• High rates of abuse/neglect in foster homes, and untimely investigation of reports of abuse/neglect in foster homes</li> <li>• Children placed in emergency shelters for prolonged periods due to lack of foster family homes</li> <li>• Placement instability</li> <li>• Caseworkers poorly trained and carry high caseloads, and fail to visit children</li> <li>• Frequent caseworker turnover</li> </ul>	6-1-1993; supplemental complaints filed 6-2-1999 & 12-1-2000	Settlement Agreement approved by court 12-1-2002 and case officially closed	19 years; still in monitoring (last court order on docket is 5-2007 order granting attorneys' fees to plaintiffs for January through June 2006)	Complaint only concerned Milwaukee County, with about 5000 children receiving child welfare services; settlement entered a few months before 2003 trial date.