



**FOR IMMEDIATE RELEASE**  
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**SETTLEMENT OF CLASS-ACTION LAWSUIT MANDATES  
SWEEPING REFORM OF FOSTER CARE IN ATLANTA, GEORGIA**

**State must meet strict set of court-ordered performance standards for services to  
foster children in Georgia's two most populous counties**

*(Atlanta, GA, July 5, 2005)* A settlement agreement announced today in the *Kenny A. v. Perdue* federal civil rights class-action lawsuit on behalf of nearly 3,000 children in state custody will force Georgia to make sweeping reforms to its long-troubled foster care system in Fulton and DeKalb counties.

The lawyers for the plaintiff children and the state will ask Senior U.S. District Court Judge Marvin H. Shoob in Atlanta to approve the settlement agreement, a process which typically takes 60 to 90 days.

Under the terms of the proposed settlement, Georgia is legally obligated to make system-wide changes in its child welfare system. The State must also meet specific outcome targets in thirty-one different areas of service to foster children. These commitments to improve services include ensuring quality health services, timely and thorough abuse investigations, frequent visits with foster children by their case workers, and accelerated searches for children's relatives as soon as they enter state custody. The State is bound to drastically reduce the caseloads of Department of Family and Children Services (DFCS) workers, implement a comprehensive statewide child welfare information system, and improve compensation, training, and support for foster parents. The Court will appoint independent child welfare experts who will have full access to all Department of Human Resources (DHR) and DFCS records, and who will issue comprehensive reports on the state's performance every six months.

"These vulnerable children have been injured by Georgia's underfunded, overwhelmed system for far too long," said Marcia Robinson Lowry, executive director of Children's Rights, the national advocacy organization for abused and neglected children that filed the lawsuit in June 2002. "Now the state must comply with one of the strictest sets of enforceable standards any system has ever had to face. The goal here is to make real and rapid improvement in the lives of these children."

The lawsuit charged that DFCS in Fulton and DeKalb counties operated an overburdened and mismanaged child welfare system that failed to deliver basic services to

children. It alleged that high caseloads for case workers, poor monitoring of child safety, and a drastic shortage of foster homes harmed these children and violated their legal rights. Judge Shoob certified the lawsuit as a class action in 2003 and appointed Lowry and Jeffrey O. Bramlett of Atlanta's Bondurant Mixson & Elmore, LLP as co-lead counsel for the plaintiff class. Georgia argued that the plaintiff children had no legally enforceable rights to improved foster care, but the Court disagreed, set a February 2005 trial date, and ordered the case to mediation in late 2004.

As part of the fact-finding process leading up to trial, the Plaintiff children's attorneys examined more than 477,000 documents and took sworn testimony from more than 50 witnesses. The reforms mandated by the settlement directly relate to the problems uncovered and documented by this comprehensive factual investigation.

"After so many years of failure and broken promises by the state, this lawsuit has given these abused and neglected children a voice," said Ira Lustbader, associate director at Children's Rights. "This settlement will finally make DFCS accountable for the safety and care of foster children -- accountable to the children, to the court and to the public. You can be sure we will be watching the state's performance closely."

### **Mandated Systemic Reforms**

Georgia has agreed, under the terms of the settlement, to make a number of specific system-wide management and infrastructure reforms, including:

- **Reducing caseloads** -- Sets maximum caseload limits for investigating reports of child abuse (12 children per worker) and for ensuring a foster child's safety and care while in state custody (15 children per worker) to meet national standards. For years, caseloads have been two to three times national standards.
- **Increasing payments to foster parents** -- Mandates increases of up to 20% in the minimum daily payment to foster parents and the establishment of a Reimbursement Rate Task Force to create a new rate scale for foster parents with special needs children.
- **Finding new places for children to live** -- Requires immediate analysis by an independent expert of shortages in the types and numbers of foster homes and other foster placements and services, with the state's guarantee to provide new and additional placements as needed.
- **Preventing overcrowding and warehousing of children** -- Sets strict limits on use of emergency shelters, placement of foster children in institutions and on the number of children that can be placed in a foster home.
- **Reducing time in foster care** -- Requires immediate action to be taken on behalf of children who have been stuck in the system for long periods of time, with specialized efforts to provide needed services and find them permanent, stable homes with loving families.

## Improved Outcomes for Children

Georgia must also achieve improved outcomes for children in 31 areas of service and sustain its performance on all 31 measures for 18 months before the court will consider ending its oversight. Some of the required positive outcomes include:

- **Prompt, thorough investigation of child abuse** -- Abuse investigators must timely commence and complete at least 95% of all reports of abuse and neglect of foster children within legally mandated time periods. Timely, face-to-face contact with alleged child victims must take place for at least 99% of reports of child abuse or neglect of foster children.
- **Preventing maltreatment of foster children** -- No more than .57% of all children in foster care shall be the victims of substantiated maltreatment while in state custody.
- **Ensuring quality services** -- The state must ensure that at least 85% of all foster children have no unmet medical, dental, mental health, education or other service needs.
- **Mandatory case worker visits** -- At least 95% of foster children will receive a minimum of two visits every month from their DFCS case worker.
- **Keeping siblings together** -- At least 80% of foster children who enter state custody along with one or more siblings must be placed together with all of their siblings.
- **Stable foster homes** -- At least 95% of children will experience two or fewer moves during the prior 12 months in state custody.
- **Case worker continuity** -- At least 90% of foster children will have two or fewer caseworkers assigned to them within the prior 12 months in state custody.
- **Quickly finding permanent homes** -- At least 74% of all children entering the system must either be returned to their parents or permanently placed with a relative within 12 months of entering the system, or permanently placed with an adoptive family or a permanent guardian within 24 months of entering the system.
- **Timely search for relatives** -- DFCS must conduct and document a diligent search for parents and relatives within 60 days of a child's entry into foster care in at least 95% of cases.

The parties have asked the Court to appoint independent child welfare experts to measure and report on Georgia's performance under the terms of the settlement. They are James Dimas, who has worked with the Annie E. Casey Foundation on projects for DHR in Georgia, and Sarah Morrison, who is affiliated with the national Center for the Study of Social Policy in Washington, D.C.

The settlement does not resolve the children's claims against co-defendants Fulton county and DeKalb county for failing to provide adequate legal counsel to children while in state custody. In the first ruling of its kind in the nation, Judge Shoob affirmed that abused and neglected children have a right to adequate and effective legal counsel at every major stage of their experience in the child welfare system. Fulton and DeKalb

counties are facing a federal trial on whether the legal service they provide to foster children meets this state constitutional standard.

### **Background on *Kenny A. v. Perdue***

**June 6, 2002** -- Children's Rights files a class-action lawsuit on behalf of all abused and neglected children in Fulton and DeKalb counties.

**September 9, 2002** -- Children's Rights files a motion for preliminary injunction requesting that the Court order the closing of the Fulton and DeKalb emergency shelters for children.

**October 2002** -- As a result of failing a federal audit of its child welfare system, Georgia commits to a detailed program of reform over the next two years.

**November 14-19, 2002** -- A hearing on the motion for preliminary injunction is held. Defendants represent to the Court that both shelters would be closed by March 2003.

**December 12, 2002** -- Court denies motion for preliminary injunction without prejudice to allow plaintiffs to return to Court if the shelters are not closed as promised. Court's opinion finds that "few concrete steps were taken to close the shelters before this lawsuit was filed."

**December 27, 2002** -- Fulton emergency shelter is closed.

**February 14, 2003** -- DeKalb emergency shelter is closed.

**August 2003** -- Judge Shoob rules that the case will proceed to trial as a class-action suit on behalf of all 3,000 foster children in Fulton and DeKalb counties. The judge flatly rejects the state's efforts to dismiss the case and upholds the plaintiff foster children's right to bring a legal challenge to violations of their constitutional and statutory rights.

**November/December 2003** -- Expert research reviews of the child welfare systems in Fulton and DeKalb counties find that children are being harmed.

**July 30, 2004** -- Trial date set for February 14, 2005.

**November 2004 - January 2005** - Updated expert reviews of Fulton and DeKalb DFCS show continuing failure to adequately meet the needs of foster children.

**December 13, 2004** -- Court denies state's motion for summary judgment to kick the case out of court for lack of proof and denies the state's motion to exclude Plaintiffs' experts from testifying at trial.

**January 2005** -- Settlement negotiations begin.

**February 8, 2005** -- Court denies Fulton and DeKalb Counties' motions for summary judgment to prevent trial on claims of inadequate legal representation in Juvenile Court proceedings. In the first ruling of its kind in the nation, Judge Shoob rules that abused and neglected children have a right to adequate and effective legal counsel at every major stage of their experience in the child welfare system.

**March 2005** -- State releases performance data on progress toward meeting reforms promised after failed federal review (see October 2002 above), which shows continued widespread failure and worsening performance in some areas.

**July 5, 2005** -- A proposed settlement agreement is reached, mandating sweeping reform of Georgia's foster care system in Fulton and DeKalb counties.

**A full copy of the Settlement Agreement is available in “pdf” format and can be downloaded and printed from [www.childrensrights.org](http://www.childrensrights.org).**

*Children’s Rights works in partnership with national and local experts, advocates and government officials throughout the U.S. to document the needs of children in the care of child welfare systems. Children’s Rights helps develop realistic solutions and shape child welfare reform policy and, where necessary, uses the power of litigation to ensure that reform takes place. [www.childrensrights.org](http://www.childrensrights.org).*

*Bondurant, Mixson & Elmore, LLP, an Atlanta law firm known for its class action business litigation work on behalf of both plaintiffs and defendants, partnered with Children’s Rights in this class-action litigation on behalf of the plaintiff children.*

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